Senate Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 336

SENATE BILL 1351

AN ACT

AMENDING TITLE 32, CHAPTER 36, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; RELATING TO APPRAISAL MANAGEMENT COMPANIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 32, chapter 36, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. APPRAISAL MANAGEMENT COMPANIES

32-3661. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "APPRAISAL" MEANS THE ACT OR PROCESS OF DEVELOPING AN OPINION OF THE VALUE OF REAL PROPERTY IN CONFORMANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE PUBLISHED BY THE APPRAISAL FOUNDATION, OR ANY OTHER DEFINITION USED IN STATE OR FEDERAL LAWS.

2. "APPRAISAL MANAGEMENT COMPANY" MEANS A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, SUBSIDIARY OR OTHER BUSINESS ENTITY THAT DIRECTLY OR INDIRECTLY PERFORMS APPRAISAL MANAGEMENT SERVICES, REGARDLESS OF THE USE OF THE TERM "APPRAISAL MANAGEMENT COMPANY", "MORTGAGE TECHNOLOGY PROVIDER", "LENDER PROCESSING SERVICES", "LENDER SERVICES", "LOAN PROCESSOR", "MORTGAGE SERVICES", "REAL ESTATE CLOSING SERVICES PROVIDER", "SETTLEMENT SERVICES PROVIDER", "VENDOR MANAGEMENT COMPANY" OR ANY OTHER TERM, AND THAT DOES ANY OF THE FOLLOWING:

(a) ADMINISTERS AN APPRAISER PANEL OF INDEPENDENT CONTRACT APPRAISERS TO PERFORM REAL PROPERTY APPRAISAL SERVICES IN THIS STATE FOR CLIENTS.

(b) RECEIVES REQUESTS FOR REAL PROPERTY APPRAISAL SERVICES FROM CLIENTS AND, FOR A FEE PAID BY THE CLIENT, ENTERS INTO AN AGREEMENT WITH ONE OR MORE INDEPENDENT APPRAISERS TO PERFORM THE REAL PROPERTY APPRAISAL SERVICES CONTAINED IN THE REQUEST.

(c) OTHERWISE SERVES AS A THIRD PARTY LIAISON OF APPRAISAL MANAGEMENT SERVICES BETWEEN CLIENTS AND APPRAISERS.

3. "APPRAISAL MANAGEMENT SERVICES" MEANS THE PROCESS OF RECEIVING A REQUEST FOR THE PERFORMANCE OF REAL PROPERTY APPRAISAL SERVICES FROM A CLIENT, AND FOR A FEE PAID BY THE CLIENT, ENTERING INTO AN AGREEMENT WITH ONE OR MORE INDEPENDENT APPRAISERS WHO ARE PART OF AN APPRAISER PANEL TO PERFORM THE REAL PROPERTY APPRAISAL SERVICES CONTAINED IN THE REQUEST.

4. "APPRAISAL REVIEW" MEANS 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, BUT DOES NOT INCLUDE AN EXAMINATION OF AN APPRAISAL FOR GRAMMATICAL, TYPOGRAPHICAL OR OTHER SIMILAR ERRORS THAT DO NOT COMMUNICATE AN OPINION RELATED TO THE APPRAISER'S DATA COLLECTION, ANALYSIS, OPINIONS, CONCLUSIONS, ESTIMATE OF VALUE OR COMPLIANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

5. "APPRAISER" MEANS A PERSON WHO IS LICENSED OR CERTIFIED AS AN APPRAISER PURSUANT TO THIS CHAPTER AND WHO PERFORMS VALUATION SERVICES COMPETENTLY AND IN A MANNER THAT IS INDEPENDENT, IMPARTIAL AND OBJECTIVE.

6. "APPRAISER PANEL" MEANS A GROUP OF INDEPENDENT APPRAISERS THAT HAS BEEN SELECTED BY AN APPRAISAL MANAGEMENT COMPANY TO PERFORM REAL PROPERTY APPRAISAL SERVICES FOR THE APPRAISAL MANAGEMENT COMPANY.

7. "CLIENT" MEANS A PERSON THAT CONTRACTS WITH, OR OTHERWISE ENTERS INTO AN AGREEMENT WITH, AN APPRAISAL MANAGEMENT COMPANY FOR THE PERFORMANCE OF REAL PROPERTY APPRAISAL SERVICES.

8. "CONTROLLING PERSON" MEANS ANY OF THE FOLLOWING:

(a) AN OWNER, OFFICER OR DIRECTOR OF A CORPORATION, PARTNERSHIP OR OTHER BUSINESS ENTITY SEEKING TO OFFER APPRAISAL MANAGEMENT SERVICES IN THIS STATE.

(b) AN INDIVIDUAL WHO IS EMPLOYED, APPOINTED OR AUTHORIZED BY AN APPRAISAL MANAGEMENT COMPANY AND WHO HAS THE AUTHORITY TO ENTER INTO A CONTRACTUAL RELATIONSHIP WITH CLIENTS FOR THE PERFORMANCE OF APPRAISAL MANAGEMENT SERVICES AND TO ENTER INTO AGREEMENTS WITH INDEPENDENT APPRAISERS FOR THE PERFORMANCE OF REAL PROPERTY APPRAISAL SERVICES.

(c) AN INDIVIDUAL WHO POSSESSES, DIRECTLY OR INDIRECTLY, THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF AN APPRAISAL MANAGEMENT COMPANY.

9. "REAL PROPERTY APPRAISAL SERVICES" MEANS THE PRACTICE OF DEVELOPING AN OPINION OF THE VALUE OF REAL PROPERTY IN CONFORMANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE PUBLISHED BY THE APPRAISAL FOUNDATION.

10. "RELOCATION MANAGEMENT COMPANY" MEANS A BUSINESS ENTITY WHOSE EXCLUSIVE BUSINESS SERVICES ARE NOT FOR MORTGAGE PURPOSES AND INCLUDE THE RELOCATION OF EMPLOYEES AS AN AGENT OR CONTRACTOR FOR THE EMPLOYER OR THE EMPLOYER'S AGENT FOR THE PURPOSES OF DETERMINING AN ANTICIPATED SALES PRICE, AS DEFINED BY THE WORLDWIDE EMPLOYEE RELOCATION COUNCIL, OF THE RESIDENCE OF AN EMPLOYEE BEING RELOCATED BY THE EMPLOYER IN THE COURSE OF ITS BUSINESS.

11. "UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE" MEANS THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL FOUNDATION AND ADOPTED PURSUANT TO THIS CHAPTER.

32-3662. Registration

A. A PERSON SHALL NOT DIRECTLY OR INDIRECTLY ENGAGE OR ATTEMPT TO ENGAGE IN BUSINESS AS AN APPRAISAL MANAGEMENT COMPANY, DIRECTLY OR INDIRECTLY PERFORM OR ATTEMPT TO PERFORM APPRAISAL MANAGEMENT SERVICES OR ADVERTISE OR HOLD ITSELF OUT AS ENGAGING IN OR CONDUCTING BUSINESS AS AN APPRAISAL MANAGEMENT COMPANY WITHOUT FIRST OBTAINING A REGISTRATION ISSUED BY THE BOARD PURSUANT TO THIS ARTICLE, REGARDLESS OF THE ENTITY'S USE OF APPRAISAL MANAGEMENT COMPANY, MORTGAGE TECHNOLOGY COMPANY OR ANY OTHER NAME.

B. A PERSON WHO WISHES TO BE REGISTERED AS AN APPRAISAL MANAGEMENT COMPANY IN THIS STATE MUST FILE A WRITTEN APPLICATION WITH THE BOARD ON A FORM PREPARED AND FURNISHED BY THE BOARD AND PAY A FEE IN AN AMOUNT TO BE DETERMINED BY THE BOARD. THE REGISTRATION REQUIRED BY SUBSECTION A SHALL INCLUDE:

1. THE NAME, RESIDENCE ADDRESS, BUSINESS ADDRESS AND TELEPHONE NUMBER OF THE APPLICANT AND THE LOCATION OF EACH PRINCIPAL OFFICE AND BRANCH OFFICE AT WHICH THE APPRAISAL MANAGEMENT COMPANY WILL CONDUCT BUSINESS IN THIS STATE.

2. THE NAME UNDER WHICH THE APPLICANT WILL CONDUCT BUSINESS AS AN APPRAISAL MANAGEMENT COMPANY.

3. THE NAME, RESIDENCE ADDRESS, BUSINESS ADDRESS AND TELEPHONE NUMBER OF EACH PERSON WHO WILL HAVE AN INTEREST IN THE APPRAISAL MANAGEMENT COMPANY AS A PRINCIPAL, PARTNER, OFFICER, DIRECTOR OR TRUSTEE, SPECIFYING THE CAPACITY AND TITLE OF EACH PERSON.

4. IF THE PERSON SEEKING REGISTRATION IS A CORPORATION THAT IS NOT DOMICILED IN THIS STATE, THE NAME AND CONTACT INFORMATION FOR THE COMPANY'S AGENT FOR SERVICE OF PROCESS IN THIS STATE.

5. A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION HAS A SYSTEM AND PROCESS IN PLACE TO VERIFY THAT A PERSON BEING ADDED TO THE APPRAISER PANEL FOR THE APPRAISAL MANAGEMENT COMPANY'S APPRAISAL MANAGEMENT SERVICES IN THIS STATE HOLDS A LICENSE OR CERTIFICATION IN GOOD STANDING IN THIS STATE.

6. A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION HAS A SYSTEM IN PLACE TO REVIEW THE WORK OF ALL INDEPENDENT APPRAISERS THAT ARE PERFORMING REAL PROPERTY APPRAISAL SERVICES FOR THE APPRAISAL MANAGEMENT COMPANY ON A PERIODIC BASIS TO CONFIRM THAT THE REAL PROPERTY APPRAISAL SERVICES ARE BEING CONDUCTED IN ACCORDANCE WITH UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

7. A CERTIFICATION THAT THE PERSON MAINTAINS A DETAILED RECORD OF EACH SERVICE REQUEST THAT IT RECEIVES AND THE INDEPENDENT APPRAISER THAT PERFORMS THE REAL PROPERTY APPRAISAL SERVICES FOR THE APPRAISAL MANAGEMENT COMPANY.

8. A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION HAS A SYSTEM IN PLACE TO TRAIN THOSE WHO SELECT INDIVIDUAL APPRAISERS FOR REAL PROPERTY SERVICES IN THIS STATE, TO ENSURE THAT THE SELECTORS HAVE APPROPRIATE TRAINING IN PLACING APPRAISAL ASSIGNMENTS.

9. AN IRREVOCABLE CONSENT TO SERVICE OF PROCESS.

10. ANY OTHER INFORMATION REQUIRED BY THE BOARD DEEMED REASONABLE IN SCOPE AND CONTENT AND NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS CHAPTER.

32-3663. Exemptions

THIS ARTICLE DOES NOT APPLY TO:

1. A DEPARTMENT OR UNIT WITHIN A FINANCIAL INSTITUTION THAT IS SUBJECT TO DIRECT REGULATION BY AN AGENCY OF THE UNITED STATES GOVERNMENT OR OF THIS STATE AND THAT RECEIVES REQUESTS FOR THE PERFORMANCE OF REAL ESTATE APPRAISALS FROM THE FINANCIAL INSTITUTION AND THEN ASSIGNS SUCH REQUESTS TO AN APPRAISER WHO IS PART OF THE FINANCIAL INSTITUTION'S APPRAISER PANEL.

2. A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, SUBSIDIARY OR OTHER BUSINESS ENTITY THAT EMPLOYS REAL ESTATE APPRAISERS EXCLUSIVELY ON AN EMPLOYER AND EMPLOYEE BASIS FOR THE PERFORMANCE OF ALL REAL PROPERTY APPRAISAL SERVICES IN THE NORMAL COURSE OF ITS BUSINESS AND THAT IS RESPONSIBLE FOR ENSURING THAT THE REAL PROPERTY APPRAISAL SERVICES BEING PERFORMED BY ITS EMPLOYEES ARE BEING PERFORMED IN ACCORDANCE WITH UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AND FEDERAL AND STATE LAW.

3. A RELOCATION MANAGEMENT COMPANY IN THE COURSE OF EMPLOYEE RELOCATION PURSUANT TO ITS RELOCATION POLICY.

32-3664. Registration forms

AN APPLICANT FOR INITIAL AND RENEWAL REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL SUBMIT TO THE BOARD AN APPLICATION ON A FORM PRESCRIBED BY THE BOARD.

32-3665. Expiration of registration

AN INITIAL REGISTRATION GRANTED BY THE BOARD PURSUANT TO THIS ARTICLE IS VALID FOR ONE YEAR FROM THE DATE ON WHICH IT IS ISSUED. REGISTRATION RENEWALS ARE VALID FOR TWO YEARS.

32-3666. Consent to service of process

EACH ENTITY APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL COMPLETE AND EXECUTE AN IRREVOCABLE CONSENT TO SERVICE OF PROCESS FORM AS PRESCRIBED BY THE BOARD.

32-3667. Fee; bond

A. THE BOARD SHALL ESTABLISH THE FEE FOR APPRAISAL MANAGEMENT COMPANY REGISTRATION BY RULE.

B. THE APPRAISAL MANAGEMENT COMPANY IS REQUIRED TO SHOW PROOF OF A SURETY BOND OF TWENTY THOUSAND DOLLARS.

32-3668. Owner requirements

A. AN APPRAISAL MANAGEMENT COMPANY APPLYING FOR REGISTRATION MAY NOT BE OWNED BY A PERSON OR HAVE ANY PRINCIPAL OF THE COMPANY WHO HAS HAD ANY FINANCIAL, REAL ESTATE OR MORTGAGE LENDING INDUSTRY LICENSE OR CERTIFICATE REFUSED, DENIED, CANCELED, REVOKED OR VOLUNTARILY SURRENDERED IN THIS STATE OR IN ANY OTHER STATE. THIS REQUIREMENT MAY BE WAIVED BY APPEAL AND AT THE DISCRETION OF THE BOARD.

B. EACH PERSON THAT OWNS, IS AN OFFICER OF OR HAS A FINANCIAL INTEREST IN AN APPRAISAL MANAGEMENT COMPANY IN THIS STATE SHALL:

1. BE OF GOOD MORAL CHARACTER.

2. SUBMIT TO A BACKGROUND INVESTIGATION AS DETERMINED BY THE BOARD.

3. CERTIFY TO THE BOARD THAT THE PERSON HAS NEVER HAD ANY FINANCIAL, REAL ESTATE OR MORTGAGE LENDING INDUSTRY LICENSE OR CERTIFICATE REFUSED, DENIED, CANCELED, REVOKED OR VOLUNTARILY SURRENDERED IN THIS STATE OR IN ANY OTHER STATE. THIS REQUIREMENT MAY BE WAIVED BY APPEAL AND AT THE DISCRETION OF THE BOARD.

32-3669. Controlling person

A. EACH APPRAISAL MANAGEMENT COMPANY APPLYING TO THE BOARD FOR REGISTRATION IN THIS STATE SHALL DESIGNATE ONE CONTROLLING PERSON THAT WILL BE THE MAIN CONTACT FOR ALL COMMUNICATION BETWEEN THE BOARD AND THE APPRAISAL MANAGEMENT COMPANY.

B. TO SERVE AS A CONTROLLING PERSON OF AN APPRAISAL MANAGEMENT COMPANY, A PERSON SHALL:

1. CERTIFY TO THE BOARD THAT THE PERSON HAS NEVER HAD ANY FINANCIAL, REAL ESTATE OR MORTGAGE LENDING INDUSTRY LICENSE OR CERTIFICATE ISSUED BY THIS STATE, OR ANY OTHER STATE, REFUSED, DENIED, CANCELED, REVOKED OR

VOLUNTARILY SURRENDERED. THIS REQUIREMENT MAY BE WAIVED BY APPEAL AND AT THE DISCRETION OF THE BOARD.

2. BE OF GOOD MORAL CHARACTER.

3. SUBMIT TO A BACKGROUND INVESTIGATION AS DETERMINED BY THE BOARD.

32-3670. Employee requirements

ANY EMPLOYEE OF AN APPRAISAL MANAGEMENT COMPANY, OR ANY PERSON WORKING ON BEHALF OF AN APPRAISAL MANAGEMENT COMPANY, WHO HAS THE RESPONSIBILITY OF SELECTING INDEPENDENT APPRAISERS FOR THE PERFORMANCE OF REAL PROPERTY APPRAISAL SERVICES FOR THE APPRAISAL MANAGEMENT COMPANY OR PROVIDING APPRAISAL REVIEW SERVICES ON A COMPLETED APPRAISAL, SHALL BE APPROPRIATELY TRAINED AND QUALIFIED IN COMPLIANCE WITH THIS CHAPTER.

32-3671. Agreements with independent appraisers; limitations

AN APPRAISAL MANAGEMENT COMPANY REGISTERED IN THIS STATE PURSUANT TO THIS ARTICLE MAY NOT ENTER INTO CONTRACTS OR AGREEMENTS WITH AN INDEPENDENT APPRAISER FOR THE PERFORMANCE OF REAL PROPERTY APPRAISAL SERVICES IN THIS STATE UNLESS THAT PERSON IS LICENSED OR CERTIFIED IN GOOD STANDING WITH THE BOARD.

32-3672. Annual certifications

A. EACH APPRAISAL MANAGEMENT COMPANY SEEKING TO BE REGISTERED IN THIS STATE SHALL CERTIFY TO THE BOARD ON AN ANNUAL BASIS ON A FORM PRESCRIBED BY THE BOARD THAT THE APPRAISAL MANAGEMENT COMPANY HAS A SYSTEM AND PROCESS IN PLACE TO VERIFY THAT A PERSON BEING ADDED TO THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY HOLDS A LICENSE OR CERTIFICATE IN GOOD STANDING IN THIS STATE PURSUANT TO THE BOARD.

B. EACH APPRAISAL MANAGEMENT COMPANY SEEKING TO BE REGISTERED IN THIS STATE SHALL CERTIFY TO THE BOARD ON AN ANNUAL BASIS THAT IT HAS A SYSTEM IN PLACE TO REVIEW THE QUALITY OF APPRAISALS OF ALL INDEPENDENT APPRAISERS THAT ARE PERFORMING REAL PROPERTY APPRAISAL SERVICES FOR THE APPRAISAL MANAGEMENT COMPANY ON A PERIODIC BASIS TO CONFIRM THAT THE REAL PROPERTY APPRAISAL SERVICES ARE BEING CONDUCTED IN ACCORDANCE WITH UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

C. EACH APPRAISAL MANAGEMENT COMPANY SEEKING TO BE REGISTERED SHALL CERTIFY TO THE BOARD ON AN ANNUAL BASIS THAT IT MAINTAINS A DETAILED RECORD OF EACH SERVICE REQUEST THAT IT RECEIVES AND THE NAME OF THE INDEPENDENT APPRAISER THAT PERFORMS THE REAL PROPERTY APPRAISAL SERVICES FOR THE APPRAISAL MANAGEMENT COMPANY. AN APPRAISAL MANAGEMENT COMPANY SHALL MAINTAIN A DETAILED RECORD FOR THE SAME TIME PERIOD THAT AN APPRAISER IS REQUIRED TO MAINTAIN AN APPRAISAL RECORD FOR THE SAME REAL PROPERTY APPRAISAL ACTIVITY.

D. EACH APPRAISAL MANAGEMENT COMPANY SEEKING TO BE REGISTERED SHALL CERTIFY TO THE BOARD ON AN ANNUAL BASIS THAT IT HAS A SYSTEM IN PLACE TO TRAIN THOSE WHO SELECT INDIVIDUAL APPRAISERS FOR REAL PROPERTY SERVICES IN THIS STATE, TO ENSURE THAT THE SELECTORS HAVE APPROPRIATE TRAINING IN PLACING APPRAISAL ASSIGNMENTS.

1 32-3673. Disclosure of fees
2 THE APPRAISAL MANAGEMENT COMPANY SHALL NOT PROHIBIT THE APPRAISER FROM
3 REPORTING IN THE APPRAISAL REPORT THE FEE PAID TO THE APPRAISER.
4 32-3674. Appraiser independence; prohibitions
5 A. ANY EMPLOYEE, DIRECTOR, OFFICER OR AGENT OF AN APPRAISAL MANAGEMENT
6 COMPANY REGISTERED PURSUANT TO THIS ARTICLE SHALL NOT INFLUENCE OR ATTEMPT TO
7 INFLUENCE THE DEVELOPMENT, REPORTING OR REVIEW OF AN APPRAISAL THROUGH
8 COERCION, EXTORTION, COLLUSION, COMPENSATION, INDUCEMENT, INTIMIDATION,
9 BRIBERY OR ANY OTHER MANNER, INCLUDING:
10 1. WITHHOLDING OR THREATENING TO WITHHOLD TIMELY PAYMENT FOR AN
11 APPRAISAL.
12 2. WITHHOLDING OR THREATENING TO WITHHOLD FUTURE BUSINESS FOR AN
13 INDEPENDENT APPRAISER OR DEMOTING OR TERMINATING, OR THREATENING TO DEMOTE OR
14 TERMINATE, AN INDEPENDENT APPRAISER.
15 3. EXPRESSLY OR IMPLIEDLY PROMISING FUTURE BUSINESS, PROMOTIONS OR
16 INCREASED COMPENSATION FOR AN INDEPENDENT APPRAISER.
17 4. CONDITIONING THE REQUEST FOR AN APPRAISAL SERVICE OR THE PAYMENT OF
18 AN APPRAISAL FEE OR SALARY OR BONUS ON THE OPINION, CONCLUSION OR VALUATION
19 TO BE REACHED OR ON A PRELIMINARY ESTIMATE OR OPINION REQUESTED FROM AN
20 INDEPENDENT APPRAISER.
21 5. REQUESTING THAT AN INDEPENDENT APPRAISER PROVIDE AN ESTIMATED,
22 PREDETERMINED OR DESIRED VALUATION IN AN APPRAISAL REPORT OR PROVIDE
23 ESTIMATED VALUES OR COMPARABLE SALES AT ANY TIME BEFORE THE INDEPENDENT
24 APPRAISER'S COMPLETION OF AN APPRAISAL SERVICE.
25 6. PROVIDING TO AN INDEPENDENT APPRAISER AN ANTICIPATED, ESTIMATED,
26 ENCOURAGED OR DESIRED VALUE FOR A SUBJECT PROPERTY OR A PROPOSED OR TARGET
27 AMOUNT TO BE LOANED TO THE BORROWER, EXCEPT THAT A COPY OF THE SALES CONTRACT
28 FOR PURCHASE TRANSACTIONS MAY BE PROVIDED.
29 7. PROVIDING TO AN INDEPENDENT APPRAISER, OR ANY ENTITY OR PERSON
30 RELATED TO THE APPRAISER, STOCK OR OTHER FINANCIAL OR NONFINANCIAL BENEFITS.
31 8. ALLOWING THE REMOVAL OF AN INDEPENDENT APPRAISER FROM AN APPRAISER
32 PANEL, WITHOUT PRIOR WRITTEN NOTICE TO THE APPRAISER.
33 9. OBTAINING, USING OR PAYING FOR A SECOND OR SUBSEQUENT APPRAISAL OR
34 ORDERING AN AUTOMATED VALUATION MODEL IN CONNECTION WITH A MORTGAGE FINANCING
35 TRANSACTION, UNLESS THERE IS A REASONABLE BASIS TO BELIEVE THAT THE INITIAL
36 APPRAISAL WAS FLAWED OR TAINTED AND THE BASIS IS CLEARLY AND APPROPRIATELY
37 NOTED IN THE LOAN FILE OR UNLESS THE APPRAISAL OR AUTOMATED VALUATION MODEL
38 IS DONE PURSUANT TO A BONA FIDE PRE-FUNDING OR POST-FUNDING APPRAISAL REVIEW
39 OR QUALITY CONTROL PROCESS.
40 10. ENGAGING IN ANY OTHER ACT OR PRACTICE THAT IMPAIRS OR ATTEMPTS TO
41 IMPAIR AN APPRAISER'S INDEPENDENCE, OBJECTIVITY OR IMPARTIALITY.
42 B. AN APPRAISAL FEE OFFERED OR PAID MAY NOT BE BASED ON THE
43 PREDETERMINED VALUE OR RANGE OF VALUE OF THE SUBJECT PROPERTY OR THE AMOUNT
44 OF THE TRANSACTION PRICE.

C. SUBSECTIONS A AND B DO NOT PROHIBIT AN APPRAISAL MANAGEMENT COMPANY FROM REQUESTING THAT AN INDEPENDENT APPRAISER EITHER:

1. PROVIDE ADDITIONAL INFORMATION ABOUT THE BASIS FOR A VALUATION.

2. CORRECT OBJECTIVE FACTUAL ERRORS IN AN APPRAISAL REPORT.

32-3675. Payment

EXCEPT IN CASES OF BREACH OF CONTRACT OR SUBSTANDARD PERFORMANCE OF SERVICES, EACH APPRAISAL MANAGEMENT COMPANY SHALL MAKE PAYMENT TO AN INDEPENDENT APPRAISER FOR THE COMPLETION OF AN APPRAISAL OR VALUATION ASSIGNMENT WITHIN FORTY-FIVE DAYS AFTER THE DATE ON WHICH THE INDEPENDENT APPRAISER TRANSMITS OR OTHERWISE PROVIDES THE COMPLETED APPRAISAL OR VALUATION STUDY TO THE APPRAISAL MANAGEMENT COMPANY OR ITS ASSIGNEE.

32-3676. Appraisal reports; alteration; use

AN APPRAISAL MANAGEMENT COMPANY SHALL NOT:

1. ALTER, MODIFY, REVISE OR OTHERWISE CHANGE A COMPLETED APPRAISAL REPORT SUBMITTED BY AN INDEPENDENT APPRAISER, INCLUDING REMOVING THE SIGNATURE OF THE APPRAISER.

2. USE AN APPRAISAL REPORT SUBMITTED BY AN INDEPENDENT APPRAISER FOR ANY PURPOSE OTHER THAN THE INTENDED USE STATED IN THE REPORT.

32-3677. Adjudication of disputes

A. EXCEPT WITHIN THE FIRST SIXTY DAYS AFTER AN INDEPENDENT APPRAISER IS FIRST ADDED TO THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY, AN APPRAISAL MANAGEMENT COMPANY SHALL NOT REMOVE AN APPRAISER FROM ITS APPRAISER PANEL, OR OTHERWISE REFUSE TO ASSIGN REQUESTS FOR REAL PROPERTY APPRAISAL SERVICES TO AN INDEPENDENT APPRAISER, WITHOUT NOTIFYING THE APPRAISER IN WRITING OF THE REASONS FOR THE APPRAISER BEING REMOVED FROM THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY.

B. AN INDEPENDENT APPRAISER THAT IS REMOVED FROM THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY FOR ALLEGED ILLEGAL CONDUCT, VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE OR VIOLATION OF STATE LICENSING STANDARDS MAY FILE A COMPLAINT WITH THE BOARD FOR A REVIEW OF THE DECISION OF THE APPRAISAL MANAGEMENT COMPANY, EXCEPT THAT IN NO CASE SHALL THE BOARD MAKE ANY DETERMINATION REGARDING THE NATURE OF THE BUSINESS RELATIONSHIP BETWEEN THE APPRAISER AND THE APPRAISAL MANAGEMENT COMPANY THAT IS UNRELATED TO THE ACTIONS SPECIFIED IN SUBSECTION A.

C. IF AN INDEPENDENT APPRAISER FILES A COMPLAINT AGAINST AN APPRAISAL MANAGEMENT COMPANY PURSUANT TO SUBSECTION B, THE BOARD SHALL ADJUDICATE THE COMPLAINT WITHIN A REASONABLE TIME.

D. IF AFTER OPPORTUNITY FOR A HEARING AND REVIEW, THE BOARD DETERMINES THAT AN INDEPENDENT APPRAISER DID NOT COMMIT A VIOLATION OF LAW, A VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE OR A VIOLATION OF STATE LICENSING STANDARDS, THE BOARD SHALL ORDER THAT THE APPRAISER BE ADDED TO THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY THAT WAS THE SUBJECT OF THE COMPLAINT WITHOUT PREJUDICE. THE BOARD SHALL FURNISH THE APPRAISAL MANAGEMENT COMPANY WITH ALL WRITTEN DOCUMENTATION AND INVESTIGATION RECORDS THAT SUPPORT THE BOARD'S FINDINGS.

32-3678. Enforcement

THE BOARD MAY CENSURE AN APPRAISAL MANAGEMENT COMPANY, CONDITIONALLY OR UNCONDITIONALLY SUSPEND OR REVOKE ANY REGISTRATION ISSUED UNDER THIS ARTICLE OR IMPOSE CIVIL PENALTIES NOT TO EXCEED FIFTEEN THOUSAND DOLLARS PER VIOLATION IF, IN THE OPINION OF THE BOARD, AN APPRAISAL MANAGEMENT COMPANY IS ATTEMPTING TO PERFORM, HAS PERFORMED OR HAS ATTEMPTED TO PERFORM ANY OF THE FOLLOWING ACTS:

1. COMMITTING ANY ACT IN VIOLATION OF THIS ARTICLE.

2. VIOLATING ANY RULE ADOPTED BY THE BOARD IN THE INTEREST OF THE PUBLIC AND CONSISTENT WITH THIS ARTICLE.

3. KNOWINGLY MAKING OR CAUSING TO BE MADE TO THE BOARD ANY FALSE REPRESENTATION OF MATERIAL FACT.

4. SUPPRESSING OR WITHHOLDING FROM THE BOARD ANY INFORMATION THAT THE APPLICANT POSSESSES AND THAT, IF SUBMITTED BY THE APPLICANT, WOULD HAVE RENDERED THE APPLICANT INELIGIBLE TO BE REGISTERED PURSUANT TO RULES ADOPTED BY THE BOARD.

5. VIOLATING THE FEDERAL FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989 (P.L. 101-73; 103 STAT. 183).

32-3679. Disciplinary hearings

A. THE BOARD MAY CONDUCT DISCIPLINARY PROCEEDINGS IN ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10.

B. BEFORE CENSURING ANY REGISTRANT, OR SUSPENDING OR REVOKING ANY REGISTRATION, THE BOARD SHALL NOTIFY THE REGISTRANT IN WRITING OF ANY CHARGES MADE AT LEAST FORTY-FIVE DAYS BEFORE THE DATE SET FOR THE HEARING AND SHALL AFFORD THE REGISTRANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL.

C. THE WRITTEN NOTICE SHALL BE SATISFIED BY PERSONAL SERVICE ON THE CONTROLLING PERSON OF THE REGISTRANT OR THE REGISTRANT'S AGENT FOR SERVICE OF PROCESS IN THIS STATE OR BY SENDING THE NOTICE BY CERTIFIED MAIL TO THE CONTROLLING PERSON OF THE REGISTRANT TO THE REGISTRANT'S ADDRESS ON FILE WITH THE BOARD.

D. THE HEARING SHALL BE AT A TIME AND PLACE PRESCRIBED BY THE BOARD. ANY REASONABLE REQUEST FOR A DELAY OF A HEARING SHALL NOT EXCEED NINETY DAYS.

E. THE BOARD MAY MAKE FINDINGS OF FACT AND SHALL DELIVER OR MAIL THE FINDINGS TO THE REGISTRANT CHARGED WITH A VIOLATION OF THIS ARTICLE.

32-3680. Rule making authority

THE BOARD SHALL ADOPT RULES THAT ARE REASONABLY NECESSARY TO IMPLEMENT, ADMINISTER AND ENFORCE THIS ARTICLE, INCLUDING RULES FOR OBTAINING COPIES OF APPRAISALS AND OTHER DOCUMENTS NECESSARY TO AUDIT COMPLIANCE WITH THIS ARTICLE AND RULES REQUIRING A SURETY BOND TO BE POSTED WITH EACH APPLICATION.

APPROVED BY THE GOVERNOR MAY 11, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2010.

Passed the House April 29, 2010,

by the following vote: 44 Ayes,

12 Nays, 4 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 8, 2010,

by the following vote: 21 Ayes,

7 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3 day of May, 2010

at 8:50 o'clock A M.

Secretary to the Governor

Approved this 11 day of

May, 2010,

at 11:10 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12th day of May, 2010,

at 9:35 o'clock a M.

Secretary of State

S.B. 1351