

# HOUSE/SENATE BILL NO. XXXX

By Senator/Representative XXXX

## Section (1) Title.

a) This chapter shall be known as the *{State}* Appraisal Management Company Registration Act.

## Section (2) Definitions.

a) "Agency" means the {designated State appraiser certifying and licensing Agency} responsible for registering appraisal management companies under this act.

b) "Appraisal" means the practice of developing an opinion of the value of real property in conformance with the Uniform Standards for Professional Appraisal Practice as developed by the Appraisal Foundation.

c) "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than 15 certified or licensed appraisers in this state or 25 or more nationally within a given year, that is authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets—

i) to recruit, select, and retain appraisers;

ii) to contract with licensed and certified appraisers to perform appraisal assignments;

iii) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

iv) to review and verify the work of appraisers.

d) "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, except that a Quality Control Examination of an appraisal report shall not be an appraisal review.

e) "Appraiser" means an individual who holds a license or certification as an appraiser and is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

f) "Appraiser panel" means a group of licensed or certified independent appraisers that have been selected to perform appraisal services for a third party.

g) "Controlling person" means:

i) An officer or director, or owner of greater than a 10% interest, of a corporation, partnership or other business entity, seeking to act as an appraisal management company in this state; or

ii) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of services requiring registration as an appraisal management company and has the authority to enter into agreements with appraisers for the performance of appraisals; or

- 38                   iii) an individual who possesses, directly or indirectly, the power to direct or cause the direction of  
39                   the management or policies of an appraisal management company.
- 40           h) “Federal financial institutions regulatory agencies” means the Board of Governors of the Federal Reserve  
41           System, the Federal Deposit Insurance Corporations, the Office of the Comptroller of the Currency, the  
42           Office of Thrift Supervision, and the National Credit Union Administration.
- 43           i) “Federally related transaction” means any real estate-related financial transaction which—  
44                   i) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in,  
45                   contracts for, or regulates; and  
46                   ii) requires the services of an appraiser.
- 47           j) “Person” means an individual, firm, partnership, limited partnership, limited liability company, association,  
48           corporation, or other group engaged in joint business activities, however organized.
- 49           k) “Quality Control Examination” is an examination of an appraisal report for compliance and completeness  
50           including grammatical, typographical, or other similar errors.
- 51           l) “Real estate-related financial transaction” means any transaction involving—  
52                   i) the sale, lease, purchase, investment in or exchange of real property, including interests in  
53                   property, or the financing thereof;  
54                   ii) the refinancing of real property or interests in real property; and  
55                   iii) the use of real property or interests in property as security for a loan or investment, including  
56                   mortgage-backed securities.
- 57           m) “Uniform Standards of Professional Appraisal Practice” (USPAP) means the current standards of the  
58           appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards  
59           Board of the Appraisal Foundation.

### 61   **Section (3) Registration Required.**

- 62           a) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an  
63           appraisal management company or to advertise or hold itself out as engaging in or conducting business  
64           as an appraisal management company in this state without first obtaining a registration issued by the  
65           Agency under the provisions of this chapter.
- 66                   i) An applicant for registration as an appraisal management company in this State shall submit to  
67           the Agency an application on a form or forms prescribed by the Agency.
- 68                   ii) In the event a registration process is unavailable upon the effective date of the Act, an appraisal  
69           management company already conducting business in this state may continue to conduct business in  
70           accordance with the Act until the 120<sup>th</sup> day after a registration process becomes available.
- 71           b) An application for the registration required by subsection a) of this section shall include the following  
72           information:
- 73                   i) name of the person seeking registration and the fictitious name or names (if any) under which it  
74                   does business in any state;
- 75                   ii) business address of the person seeking registration;
- 76                   iii) phone contact information of the person seeking registration;

- 77           iv) if the person is not a corporation that is domiciled in this state, the name and contact information  
78           for the company's agent for service of process in this state;  
79           v) the name, address, and contact information for any individual or any corporation, partnership, or  
80           other business entity that owns 10% or more of the appraisal management company;  
81           vi) the name, address, and contact information for one controlling person designated as the main  
82           contact for all communication between the appraisal management company and the Agency;  
83           vii) a certification that the person has a system and process in place to verify that an individual  
84           being added to the appraiser panel of the appraisal management company holds a license in good  
85           standing in this state pursuant to the *{State Real Estate Appraiser Act}* if a license or certification is  
86           required to perform appraisals;  
87           viii) a certification that the person requires appraisers completing appraisals at its request to  
88           comply with the Uniform Standards of Professional Appraisal Practice (USPAP) including the  
89           requirements for geographic and product competence;  
90           ix) a certification that the person has a system in place to verify that only licensed or certified  
91           appraisers are used for federally related transactions;  
92           x) a certification that the person has a system in place to require that appraisals are conducted  
93           independently and free from inappropriate influence and coercion as required by the appraisal  
94           independence standards established under section 129E of the Truth in Lending Act, including the  
95           requirement that fee appraisers be compensated at a customary and reasonable rate when the  
96           appraisal management company is providing services for a consumer credit transaction secured by  
97           the principal dwelling of a consumer.  
98           xi) a certification that the person maintains a detailed record of each service request that it receives  
99           and the appraiser that performs the residential real estate appraisal services for the appraisal  
100           management company;  
101           xii) An irrevocable Uniform Consent to Service of Process, pursuant to Section 5 of this chapter.  
102           xiii) Any other information required by the Agency which is reasonably necessary to implement the  
103           Act.  
104       c) An application for the renewal of a registration shall include substantially similar information required for  
105           the initial registration as noted in subsection b), as determined by the Agency.  
106       d) A registration granted by the Agency pursuant to this chapter shall be valid for one year from the date  
107           on which it is issued.  
108

#### 109 **Section (4) Exemptions.**

- 110       a) The provisions of this chapter do not apply to an appraisal management company that is a subsidiary  
111           owned and controlled by a financial institution regulated by a Federal financial institutions regulatory  
112           agency.  
113       b) The provisions of this chapter do not apply to a business entity that exclusively engages real estate  
114           appraisers on an employer and employee basis for the performance of all real property appraisal  
115           services in the normal course of its business, except to the extent federal law or regulation requires

116 such entities to register with and be subject to supervision by a state appraiser certifying and licensing  
117 agency.

118

### 119 **Section (5) Consent to Service of Process.**

120 Each person applying for a registration as an appraisal management company that is not domiciled in this  
121 state shall complete an irrevocable Uniform Consent to Service of Process, as prescribed by the Agency.

122

### 123 **Section (6) Fee.**

124 a) The Agency shall establish by rule or regulation a processing fee to be paid by each appraisal  
125 management company seeking registration under this chapter that is sufficient for the administration of the  
126 registration process, but in no case shall the fee be more than [\$1,500.]

127 b) A similar processing fee, not to exceed [\$1,500], may be charged by the Agency in connection with the  
128 renewal of any registrations.

129

### 130 **Section (7) Owner Requirements.**

131 a) An appraisal management company applying for registration in this state shall not:

132 i) Be owned by any person who has had an appraiser license or certificate in this state or in any  
133 other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked, unless such  
134 license or certificate was subsequently granted or reinstated;

135 ii) Be more than 10% owned by a person who is not of good moral character, which for purposes of  
136 this section shall require that such person has not been convicted of, or entered a plea of nolo  
137 contendere to, a felony relating to the practice of appraisal, banking, mortgage lending or the  
138 provision of financial services, or any crime involving fraud, misrepresentation or moral turpitude.

139 b) For purposes of section 7(a)(ii), each owner of more than 10% of an appraisal management company  
140 shall submit to a background investigation to be carried out by a law enforcement agency or other entity  
141 authorized by the Agency.

142

### 143 **Section (8) Designated Contact.**

144 Each appraisal management company applying to the Agency for registration in this state shall designate  
145 one controlling person who is an employee of the appraisal management company that will be the  
146 designated contact for all communication between the Agency and the appraisal management company.

147

### 148 **Section (9) Appraiser Credentials.**

149 a) An appraisal management company that applies to the Agency for a registration to do business in this  
150 state as an appraisal management company shall not:

151 i) Knowingly employ any individual to perform appraisal services, who has had a license or  
152 certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled,

- 153 surrendered in lieu of revocation, or revoked, unless such license or certificate was subsequently  
154 granted or reinstated;
- 155 ii) Knowingly enter into any independent contractor arrangement for the performance of appraisal  
156 services, in verbal, written, or other form, with any individual who has had a license or certificate to  
157 act as an appraiser in this state or in any other state, refused, denied, cancelled, surrendered in  
158 lieu of revocation, or revoked, unless such license or certificate was subsequently granted or  
159 reinstated.
- 160 b) Prior to assigning appraisal orders, an appraisal management company shall have a system in place to  
161 verify that a person being added to the appraiser panel holds the appropriate appraiser credential in  
162 good standing.
- 163 c) Each appraisal management company seeking to be registered in this state shall certify to the Agency  
164 on an annual basis on a form prescribed by the Agency that the appraisal management company has  
165 systems in place to verify that:
- 166 i) an individual on the appraiser panel has not had a license or certification as an appraiser  
167 refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation in the  
168 previous 12 months, unless such license or certificate was subsequently granted or reinstated;  
169 and
- 170 ii) only licensed or certified appraisers are used to complete appraisal assignments in connection  
171 with federally related transactions.
- 172

### 173 **Section (10) Appraisal Review.**

174 Any employee of, or independent contractor to, an appraisal management company that performs a USPAP  
175 Standard 3 review of an appraisal report on property located in this state shall be an appraiser with the  
176 proper level of licensure issued by the Agency. Quality control examinations are exempt from this  
177 requirement as they are not considered a Standard 3 review.

178

### 179 **Section (11) Adherence to Standards.**

- 180 a) Each appraisal management company seeking to be registered in this state shall certify to the Agency on  
181 an annual basis that it requires appraisers completing appraisals at its request to comply with the Uniform  
182 Standards of Professional Appraisal Practice including the requirements for geographic and product  
183 competence.
- 184 b) Each appraisal management company seeking to be registered in this state shall certify to the Agency on  
185 an annual basis that it has a system in place to require that appraisals are conducted independently and free  
186 from inappropriate influence and coercion as required by the appraisal independence standards established  
187 under section 129E of the Truth in Lending Act, including the requirement that fee appraisers be  
188 compensated at a customary and reasonable rate when the appraisal management company is providing  
189 services for a consumer credit transaction secured by the principal dwelling of a consumer.
- 190 c) Each appraisal management company seeking to be registered in this state shall certify to the Agency on  
191 an annual basis that it has a system in place requiring payment to an independent contract appraiser for the  
192 completion of an appraisal service within 60 days after the appraiser provides the completed appraisal report

193 to the appraisal management company, except in cases involving a bona fide breach of contract,  
194 substandard performance of services, or alternate payment terms agreed upon by the appraiser and the  
195 appraisal management company.  
196 d) An appraisal management company shall not prohibit an appraiser from reporting the fee paid to the  
197 appraiser in the body of the appraisal report, however an appraisal management company may require an  
198 appraiser to present any such disclosure in a specified format and location.

199

## 200 **Section (12) Recordkeeping.**

201 Each appraisal management company seeking to be registered in this state shall certify to the Agency on an  
202 annual basis that it maintains a detailed record of each service request that it receives and the appraiser that  
203 performs the appraisal for the appraisal management company. Such records must be retained for a period  
204 of at least five years after an appraisal is completed or two years after final disposition of a judicial  
205 proceeding related to the assignment, whichever period expires later.

206

## 207 **Section (13) Appraisal Reports.**

208 a) An appraisal management company may not alter, modify, or otherwise change a completed appraisal  
209 report submitted by an appraiser without the appraiser's written consent, except as necessary to comply with  
210 regulatory mandates or legal requirements.

211 b) An appraisal management company may not use an appraisal report submitted by an independent  
212 appraiser, or any of the data or information contained therein, for any purpose other than its intended use  
213 without the appraiser's or the intended end user's written consent, except as necessary to comply with  
214 regulatory mandates or legal requirements.

215

## 216 **Section (14) Registration Number.**

217 a) The Agency shall issue a unique registration number to each appraisal management company registered  
218 in this state pursuant to this chapter.

219 b) The Agency shall maintain and publish a list of the appraisal management companies registered in this  
220 state and the registration numbers assigned to such persons.

221 c) An appraisal management company registered in this state shall disclose the registration number  
222 provided to it by the Agency on the engagement documents presented to an appraiser.

223

## 224 **Section (15) Unlawful Acts**

225 a) It shall be a violation of this chapter for any employee, partner, director, officer, or agent of an appraisal  
226 management company to:

227 i) Influence or attempt to influence the development, reporting, result, or review of an appraisal  
228 through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or in any  
229 other manner, including but not limited to:

230 a. Withholding or threatening to withhold timely payment or partial payment for an appraisal  
231 with the exception of a substandard or noncompliant appraisal;

- 232 b. Withholding or threatening to withhold future business from an appraiser, or demoting,  
233 terminating or threatening to demote or terminate an appraiser;  
234 c. Promising or implying that an appraiser may be given opportunities for future business,  
235 promotions, or increased compensation;  
236 d. Conditioning an assignment of an appraisal or the payment of an appraisal fee or salary or  
237 bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate  
238 or opinion requested from an appraiser;  
239 e. Requesting that an appraiser provide an estimated, predetermined, or desired valuation in  
240 an appraisal, or provide estimated values or comparable sales at any time prior to the  
241 appraiser's completion of an appraisal;  
242 f. Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a  
243 subject property or a proposed or target amount to be loaned to the borrower, except that  
244 a copy of the sales contract for purchase transactions may be provided; and  
245 g. Requiring an appraiser to prepare an appraisal report if the appraiser has indicated to the  
246 appraisal management company that he or she does not have the necessary expertise for  
247 the specific geographic area.
- 248 ii) Require an appraiser to indemnify the appraisal management company against liability, damages,  
249 losses, or claims other than those liabilities, damages, losses or claims arising out of the services  
250 performed by the appraiser, including performance or non-performance of the appraiser's duties  
251 and obligations, whether as a result of negligence or willful misconduct.
- 252 iii) Submit or attempt to submit false, misleading, or inaccurate information in any application for  
253 registration or renewal;
- 254 iv) Fail to timely respond to any subpoena or any other legally-binding request for information;
- 255 v) Fail to timely obey a lawful administrative order of the Agency; or
- 256 vi) Fail to fully cooperate in any Agency investigation.
- 257 b) Notwithstanding any other provision in this Act, an appraisal management company shall not be  
258 prohibited from requesting that an appraiser:
- 259 i) Consider additional appropriate property information;
- 260 ii) Provide additional information concerning the basis for an evaluation; or
- 261 iii) Correct objective factual errors in an appraisal report.

262

## 263 **Section (16) Mandatory Reporting**

264 An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with  
265 applicable laws, the Uniform Standards of Professional Appraisal Practice or other ethical or professional  
266 requirements in connection with a consumer credit transaction secured by a consumer's principal dwelling, shall refer  
267 the matter to the agency if the failure to comply is material. For purposes of this section 16, a failure to comply is  
268 material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.

269

270 **Section (17) Adjudication of Disputes Between an Appraisal Management Company**  
271 **and an Appraiser.**

272 a) Except within the first ninety (90 days) after an appraiser is first added to the appraiser panel of an  
273 appraisal management company, an appraisal management company may not remove an appraiser from its  
274 appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser  
275 without:

276 i) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the  
277 appraiser panel of the appraisal management company;

278 ii) If the appraiser is being removed from the panel for illegal conduct, violation of the Uniform  
279 Standards of Professional Appraisal Practice (USPAP), or a violation of state licensing standards,  
280 notifying the appraiser in writing of the nature of the alleged conduct or violation; and

281 iii) Providing an opportunity for the appraiser to respond to the notification of the appraisal  
282 management company.

283 b) An appraiser removed from the appraiser panel of an appraisal management company for alleged illegal  
284 conduct, violation of the Uniform Standards of Professional Appraisal Practice (USPAP), or violation of state  
285 licensing standards, may file a complaint with the Agency for a review of the action of the appraisal  
286 management company. The scope of the Agency's review in any such case is limited to determining  
287 whether the appraisal management company has complied with section 17 a) and whether illegal conduct, a  
288 violation of the USPAP, or a violation of state licensing standards has occurred.

289 c) If an appraiser files a complaint against an appraisal management company pursuant to subsection b) of  
290 this section, the Agency shall adjudicate the complaint within 180 days.

291 d) If, after opportunity for hearing and review, the Agency determines that an appraisal management  
292 company acted improperly in removing the appraiser from the appraiser panel, or that the appraiser did not  
293 commit a violation of law, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP),  
294 or a violation of state licensing standards, the Agency shall:

295 i) Provide written findings to the involved parties;

296 ii) Provide an opportunity for the appraisal management company and/or the appraiser to respond  
297 to the findings; and

298 iii) Make recommendations for action.

299

300 **Section (18) Enforcement.**

301 a) In accordance with the laws of this state, and to the extent permitted by any applicable Federal legislation  
302 or regulation, the Agency may censure an appraisal management company, conditionally or unconditionally  
303 suspend or revoke any registration issued under this Act, or levy fines or impose civil penalties not to exceed  
304 five thousand dollars, if after appropriate investigation the Agency concludes that an appraisal management  
305 company has:

306 i) Committed any act in material violation of this chapter;

307 ii) Violated any rule or regulation adopted by the Agency in the interest of the public and consistent  
308 with the provisions of this chapter; or

- 309                   iii) Procured or attempted to procure a registration for itself or any other person by fraud,  
310                   misrepresentation, or deceit
- 311           b) In order to promote voluntary compliance, encourage appraisal management companies to correct  
312 errors promptly, and ensure a fair and consistent approach to enforcement, the Agency shall endeavor to  
313 impose fines or civil penalties that are reasonable in light of the nature, extent, and severity of the violation.  
314 It shall also take action against an appraisal management company's registration, if at all, only after less  
315 severe sanctions have proven insufficient to ensure behavior consistent with this Act. When deciding  
316 whether to impose a sanction permitted by subparagraph a), determining the sanction that is most  
317 appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of  
318 this Act, the Agency shall consider whether an appraisal management company:
- 319                   i) Has an effective program reasonably designed to ensure compliance with this Act;  
320                   ii) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected  
321 violations; and  
322                   iii) Has independently reported to the Agency any significant violations or potential violations of this  
323 Act, prior to an imminent threat of disclosure or investigation and within a reasonable time after  
324 becoming aware of their occurrence.

325

326 **Section (19) Disciplinary Hearings.**

- 327           a) The conduct of adjudicatory proceedings in accordance with applicable state laws for violations of this  
328 chapter is vested in the Agency, such that:
- 329                   i) Before censuring any registrant, or suspending or revoking any registration, the agency shall  
330 notify the registrant in writing of any charges made at least twenty days prior to the date set for the  
331 hearing and shall afford the registrant an opportunity to be heard in person or by counsel.  
332                   ii) The written notice shall be satisfied by personal service on the controlling person of the  
333 registrant, or the registrant's agent for service of process in this state, or by sending the notice by  
334 certified mail, return receipt requested to the controlling person of the registrant to the registrant's  
335 address on file with the agency.  
336                   iii) The hearing on the charges shall be at a time and place prescribed by the agency and in  
337 accordance with the applicable state laws.  
338                   iv) The Agency may make findings of fact and shall deliver or mail such findings to the registrant  
339 charged with an offense under this Act.

340

341 **Section (20) Rulemaking Authority.**

- 342           a) The Agency may adopt rules consistent with the provisions of this chapter that are reasonably necessary  
343 to implement, administer, and enforce the provisions of this chapter.  
344           b) The Agency shall provide for one member seat to represent the appraisal management company  
345 industry.

346

347 **Section (21) Appraisal Management Company Account.**

348 The Appraisal Management Company account is created in accordance with state laws. All fees and  
349 penalties under this chapter must be paid to the account. Expenditures from the account may be used only  
350 for expenses incurred in carrying out the provisions of this chapter. Any residue in the account shall be  
351 accumulated and shall not revert to the general fund at the end of the biennium. The account is subject to  
352 allotment procedures under administrative rules, but an appropriation is not required for expenditures.

353

354 **Section (22) Effective Date.**

355 This Act shall take effect on the later of:

356 i) {presumptive effective date}; or

357 ii) 120 days after the first date on which all rules, forms and policies necessary to implement this  
358 chapter have been finalized and made available by the Agency.

359