## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## **HOUSE BILL**

No. 2334 Session of 2010

INTRODUCED BY STEVENSON, HELM, QUINN, ADOLPH, BOYD, BUXTON, CARROLL, CREIGHTON, ELLIS, J. EVANS, FAIRCHILD, GEIST, GINGRICH, GRELL, HARHART, HARPER, HARRIS, HENNESSEY, HESS, HICKERNELL, HORNAMAN, M. KELLER, KILLION, KORTZ, KULA, LONGIETTI, MARSICO, MOUL, MURT, O'NEILL, PALLONE, PASHINSKI, PICKETT, REICHLEY, SAYLOR, SIPTROTH, SONNEY, STERN, TRUE, VULAKOVICH AND WATSON, MARCH 16, 2010

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 16, 2010

## AN ACT

- 1 Providing for the registration of appraisal management
- companies, for the powers of the State Board of Certified
- Real Estate Appraisers with respect to appraisal management
- 4 companies, for the responsibilities and duties of registered
- 5 appraisal management companies, for prohibited activities and
- 6 for discipline.
- 7 The General Assembly of the Commonwealth of Pennsylvania
- 8 hereby enacts as follows:
- 9 Section 1. Short title.
- 10 This act shall be known and may be cited as the Appraisal
- 11 Management Company Registration Act.
- 12 Section 2. Definitions.
- 13 The following words and phrases when used in this act shall
- 14 have the meanings given to them in this section unless the
- 15 context clearly indicates otherwise:
- 16 "Appraisal." The term has the meaning provided in section 2
- 17 of the act of July 10, 1990 (P.L.404, No.98), known as the Real

- 1 Estate Appraisers Certification Act.
- 2 "Appraisal management company." A person that provides
- 3 appraisal management services and acts as a third-party
- 4 intermediary between a person seeking a valuation of real estate
- 5 and an appraiser or firm of appraisers.
- 6 "Appraisal management services." Conducting business by
- 7 telephone, by electronic means, by mail or in person directly or
- 8 indirectly for compensation or in the expectation of
- 9 compensation to manage the performance of appraisals for a
- 10 client, including, without limitation:
- 11 (1) Recruiting appraisers.
- 12 (2) Contracting with appraisers to perform appraisals.
- 13 (3) Negotiating fees with appraisers.
- 14 (4) Receiving appraisal orders and appraisals.
- 15 (5) Submitting appraisals received from appraisers to
- 16 the client.
- 17 (6) Providing related administrative and clerical
- 18 duties.
- 19 "Appraisal review." The act or process of developing and
- 20 communicating an opinion about the quality, adequacy or
- 21 reasonableness of the work of an appraiser, including the
- 22 appraiser's opinions or conclusions developed in an appraisal
- 23 assignment, such as value.
- 24 "Appraiser." An individual certified under the act of July
- 25 10, 1990 (P.L.404, No.98), known as the Real Estate Appraisers
- 26 Certification Act, as a certified residential appraiser or
- 27 certified general appraiser.
- 28 "Appraiser panel." A group of appraisers that have been
- 29 selected by an appraisal management company to perform
- 30 appraisals for the appraisal management company.

- 1 "Board." The State Board of Certified Real Estate Appraisers
- 2 within the Bureau of Professional and Occupational Affairs in
- 3 the Department of State.
- 4 "Client." A person that contracts with or otherwise enters
- 5 into an agreement with an appraisal management company for the
- 6 performance of appraisal management services.
- 7 "Compliance person." An individual who is employed,
- 8 appointed or authorized by an appraisal management company to be
- 9 responsible for ensuring compliance with this act.
- 10 "Real Estate Appraisers Certification Act." The act of July
- 11 10, 1990 (P.L.404, No.98), known as the Real Estate Appraisers
- 12 Certification Act.
- 13 "Registrant." An appraisal management company that is
- 14 registered under this act.
- 15 "RELRA." The act of February 19, 1980 (P.L.15, No.9), known
- 16 as the Real Estate Licensing and Registration Act.
- 17 Section 3. Registration of appraisal management companies
- 18 required.
- 19 (a) General rule. -- Except as provided in subsection (b), a
- 20 person shall not act as an appraisal management company in this
- 21 Commonwealth unless registered by the board.
- 22 (b) Exceptions. -- This act does not apply to:
- 23 (1) An appraiser who:
- 24 (i) in the normal course of business enters into an
- agreement, whether written or otherwise, with an
- appraiser for the performance of an appraisal; and
- 27 (ii) under the agreement cosigns the appraisal upon
- its completion.
- 29 (2) A person authorized to engage in business as a
- 30 banking institution, credit union or savings association

- organized under the laws of this Commonwealth or any other
- 2 jurisdiction.
- 3 Section 4. Powers of the board.
- 4 The board shall have the powers necessary to implement,
- 5 administer and enforce this act, including, without limitation,
- 6 the power to adopt rules and regulations consistent with this
- 7 act.
- 8 Section 5. Requirements for registration.
- 9 (a) Application. -- Before acting or offering to act as an
- 10 appraisal management company in this Commonwealth, a person
- 11 shall make written application to the board for registration
- 12 accompanied by the required fee and bond.
- 13 (b) Required information. -- The application shall contain
- 14 such information as the board shall require, including, without
- 15 limitation, the following information:
- 16 (1) The name, business street address, telephone number
- and other contact information of the applicant.
- 18 (2) If the applicant is not an individual and is
- incorporated or otherwise formed under the laws of a
- jurisdiction other than this Commonwealth, documentation that
- 21 the applicant is authorized to transact business in this
- 22 Commonwealth.
- 23 (3) The name, street address, telephone number and other
- 24 contact information of any person that owns 10% or more of
- 25 the applicant.
- 26 (4) The name, street address, telephone number and other
- 27 contact information of the applicant's compliance person.
- 28 (5) A certification that the applicant:
- 29 (i) Has a system in place to verify that a person
- 30 being added to an appraiser panel of the applicant or who

will otherwise perform appraisals for the applicant of
property located in this Commonwealth is certified and in
good standing in this Commonwealth under the Real Estate
Appraisers Certification Act.

- (ii) Has a system in place for the performance of appraisal reviews with respect to the work of all appraisers that are performing appraisals for the applicant of property located in this Commonwealth to determine whether the appraisals are being conducted in conformance with the minimum standards under the Real Estate Appraisers Certification Act both on a periodic basis and whenever requested by a client.
- (iii) Maintains a detailed record of each request for an appraisal that it receives, the appraiser assigned to perform the appraisal, the fees received from the client for the appraisal and the payment to the appraiser.
- (6) Any discipline imposed on the applicant in this Commonwealth or any other state under any law regulating appraisers, appraisal management companies or real estate brokers or salespersons.
- 22 (7) Any other information required by rules and regulations of the board.
- 24 (c) Requirements for registration.—The board shall register 25 an applicant as an appraisal management company in this
- 26 Commonwealth upon:

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- 27 (1) Receipt of a properly completed application.
- 28 (2) Payment of the required fee.
- 29 (3) Posting of the required bond.
- 30 (4) A determination by the board that the activities of

- 1 the applicant will be directed and conducted by persons of
- 2 good moral character as defined in the rules and regulations
- 3 of the board.
- 4 (d) Denial of application.--
- 5 (1) If the board finds that there is reason to deny the
- 6 application for registration, the board shall notify the
- 7 applicant that the application has been denied and shall
- 8 afford the applicant an opportunity for a hearing before the
- 9 board to show cause why the application should not be denied.
- 10 (2) All proceedings concerning the denial of an
- application for registration shall be governed by 2 Pa.C.S.
- 12 (relating to administrative law and procedure).
- 13 (e) Construction. -- The acceptance by the board of an
- 14 application for registration does not constitute the approval of
- 15 its contents or waive the authority of the board to take
- 16 disciplinary action under this act.
- 17 Section 6. Fees and renewals.
- 18 (a) Filing fees. -- The fee to file an application for
- 19 registration or renewal of a registration under this act shall
- 20 be \$1,000 or such other amounts as are set by the rules and
- 21 regulations of the board.
- 22 (b) Bond.--
- 23 (1) In addition to the filing fee, each applicant for
- 24 registration shall post with the board and maintain a surety
- bond in the amount of \$20,000, or such other amount as shall
- 26 be set by the rules and regulations of the board.
- 27 (2) The bond shall:
- 28 (i) Be in the form prescribed by the rules and
- 29 regulations of the board.
- 30 (ii) Accrue to the Commonwealth for the benefit of a

- 1 claimant against the registrant to secure the faithful
- performance of the registrant's obligations under this
- 3 act.
- 4 (3) The aggregate liability of the surety shall not 5 exceed the principal sum of the bond.
- 6 (4) A party having a claim against the registrant may
  7 bring suit directly on the surety bond or the board may bring
  8 suit on behalf of the party having a claim against the
- 9 registrant.
- 10 (5) A deposit of cash or security may be accepted in lieu of the bond.
- 12 (6) The amount of the bond shall be restored to the full
- amount required within 15 days after the payment of any claim
- on the bond.
- 15 (c) Renewal.--
- 16 (1) Registrations under this act shall be renewed on a
- 17 biennial basis for persons in good standing.
- 18 (2) Failure to timely renew a registration shall result
- in a loss of authority to operate under this act.
- 20 (3) A request to reinstate a registration shall be
- accompanied by payment of a penalty of \$50 for each month of
- 22 delinquency.
- 23 (4) The contents of an application for renewal shall be
- 24 prescribed by the rules and regulations of the board.
- 25 Section 7. Registrant responsibilities and duties.
- 26 (a) Conduct of reviews. -- All appraisal reviews, as defined
- 27 by the Uniform Standards of Professional Appraisal Practice,
- 28 must be conducted by a certified or licensed appraiser in good
- 29 standing in this Commonwealth or another state.
- 30 (b) Records.--

- 1 (1)A registrant shall maintain or cause to be 2 maintained:
- 3 (i) complete records of its compliance with the certifications required under section 5(b)(5); and 4
  - such other accounts, correspondence, memoranda, (ii) papers, books and other records as shall be required by the rules and regulations of the board.
    - The records must be retained for the longer of:
      - five years after their preparation;
  - (ii) two years after final disposition of any judicial proceeding that involves the actions of the appraisal management company that are the subject of the records; or
    - such other period as shall be required by the rules and regulations of the board with respect to a particular class or type of records.
- 17 The board may inspect the records required by paragraph (1) periodically or if the board determines that 19 the records are pertinent to an investigation of a complaint against a registrant.
- 21 (c) Compliance person. --
- 22 A registrant shall at all times have a compliance 23 person.
- 24 The registrant shall file a form with the board (2) 25 certifying:
- 26 The identity of the compliance person. (i)
- 27 The individual's acceptance of the (ii) 28 responsibilities of a compliance person.
- 29 The registrant shall notify the board within 30 days 30 of a change in its compliance person.

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- 1 (4) An individual registrant who operates as a sole
- 2 proprietorship is considered the compliance person under this
- 3 act.
- 4 (d) Updating of board records. -- If the information contained
- 5 in a document filed with the board is or becomes inaccurate or
- 6 incomplete in any material respect, the registrant shall
- 7 promptly file an amendment correcting the information contained
- 8 in the document.
- 9 (e) Disclosure. -- The registrant shall disclose to its client
- 10 the fees paid for an appraisal separately from any other fees or
- 11 charges for appraisal management services.
- 12 (f) Notice of discipline. -- A registrant must notify the
- 13 board in writing within 30 days after its occurrence of any
- 14 denial, revocation or suspension of its designation,
- 15 registration, certificate or license under any law of any
- 16 jurisdiction other than this Commonwealth regulating appraisal
- 17 management companies, the imposition of any other form of
- 18 discipline under any such law, or the commencement of a
- 19 disciplinary or enforcement action against the registrant under
- 20 any such law.
- 21 (g) Provision of sales contract. -- Whenever a registrant
- 22 requests an appraiser to perform an appraisal, the registrant
- 23 must make a reasonable effort to provide in a timely manner to
- 24 the appraiser a copy of the contract for the underlying
- 25 transaction, along with legal descriptions and any other
- 26 documents pertinent to the assignment.
- 27 Section 8. Prohibited activities.
- 28 (a) Improper influence. -- An employee, director, officer,
- 29 supervisor, manager or agent of an appraisal management company
- 30 or any other third party acting as a joint venture partner with

- 1 or independent contractor for an appraisal management company
- 2 shall not improperly influence or attempt to improperly
- 3 influence the development, reporting, result or review of an
- 4 appraisal, including, without limitation, through the use of
- 5 intimidation, coercion, extortion, bribery, blackmail, threat of
- 6 nonpayment or withholding payment for an appraisal or threat of
- 7 exclusion from future appraisal work.
- 8 (b) Other prohibitions.--The registrant shall not:
- 9 (1) Hire, employ or in any way contract with or pay a
- 10 person who is not an appraiser and who holds a license under
- 11 the RELRA to perform a valuation of real estate unless it is
- 12 a comparative market analysis as defined in section 201 of
- 13 the RELRA.
- 14 (2) Require an appraiser to provide the registrant with
- 15 the appraiser's digital signature or seal.
- 16 (3) Alter, amend or change an appraisal submitted by an
- 17 appraiser, including, without limitation, by:
- 18 (i) removing the appraiser's signature or seal; or
- 19 (ii) adding or removing information to or from the
- appraisal.
- 21 (4) Remove an appraiser from an appraiser panel without
- 22 prior written notice to the appraiser. The notice must
- 23 include evidence of:
- 24 (i) illegal conduct by the appraiser;
- 25 (ii) a violation of the minimum reporting standards
- 26 under the Real Estate Appraisers Certification Act or
- other applicable statute or regulation;
- 28 (iii) substandard performance; or
- 29 (iv) otherwise improper or unprofessional behavior.
- 30 (5) Enter into a contract or agreement with an appraiser

- for the performance of appraisals unless the appraiser is certified and in good standing with the board.
- 3 (6) Request that an appraiser provide:
- 4 (i) an estimated, predetermined or desired valuation 5 in an appraisal; or
- 6 (ii) estimated values or comparable sales at any
  7 time before the appraiser completes an appraisal.
- 8 (7) Except as provided in section 7(g), provide to an 9 appraiser an anticipated, estimated, encouraged or desired 10 value for a property or a proposed or target amount to be 11 loaned to the borrower.
- 12 (8) Commit an act or practice that impairs or attempts 13 to impair an appraiser's independence, objectivity or 14 impartiality or solicit an appraiser to violate this act or 15 the RELRA.
- 16 (9) Prohibit an appraiser from recording the fee the
  17 appraiser was paid for the performance of an appraisal in the
  18 appraisal report.
- 19 (c) Construction.--Subsection (a) does not prohibit an 20 appraisal management company from requesting that an appraiser:
- 21 (1) Provide additional information about the basis for a 22 valuation.
- 23 (2) Correct objective factual errors in an appraisal.
- 24 (3) Provide further detail, substantiation or
  25 explanation for the appraiser's value conclusion, including,
  26 without limitation, the applicability of additional
  27 comparables as presented.
- 28 (d) Owners and employees.--
- 29 (1) Except as provided in paragraph (2), a person that 30 has been denied registration under this act or a similar law

- of another jurisdiction or that is not eligible to be
- 2 certified or licensed under the Real Estate Appraisers
- 3 Certification Act may not:
- 4 (i) be a shareholder of record, partner, member or
- 5 other owner of an equity interest in an appraisal
- 6 management company;
- 7 (ii) hold any position as a director, officer,
- 8 supervisor, manager or compliance person in an appraisal
- 9 management company; or
- 10 (iii) be directly involved in the provision of
- appraisal services by an appraisal management company as
- an employee or in any other capacity.
- 13 (2) Paragraph (1) shall cease to apply at such time as a
- 14 person is subsequently registered under this act or becomes
- eligible to be certified or licensed under the Real Estate
- 16 Appraisers Certification Act.
- 17 Section 9. Registry of applicants and roster.
- 18 (a) Registry. -- The board shall keep a register of all
- 19 applicants for registration showing:
- 20 (1) The date of application.
- 21 (2) The applicant's name.
- 22 (3) The applicant's business street address.
- 23 (4) Whether the registration was granted or denied.
- 24 (b) Roster.--The board shall keep a current roster showing
- 25 for each appraisal management company registered with the board:
- 26 (1) Its name and street address.
- 27 (2) A unique identification number.
- 28 (c) Effect and availability of records. -- The register and
- 29 roster shall be prima facie evidence of all matters contained
- 30 therein. The register and roster shall be kept on file in the

- 1 office of the board and shall be open for public inspection. The
- 2 board shall also post the roster on its Internet website.
- 3 Section 10. Discipline.
- 4 (a) Denial, suspension and revocation of registration. -- The
- 5 board may deny, suspend, revoke or refuse to issue or renew the
- 6 registration of an appraisal management company under this act
- 7 or may restrict or limit the activities of an appraisal
- 8 management company or a person that owns an interest in or
- 9 participates in the business of an appraisal management company
- 10 if the board finds that any of the following circumstances apply
- 11 to the applicant, a registrant or a partner, member, manager,
- 12 officer, director, managing principal, compliance person or a
- 13 person occupying a similar status or performing similar
- 14 functions or a person directly or indirectly controlling the
- 15 applicant or registrant:
- 16 (1) The person's application for registration or renewal
- 17 of registration when filed or after filing contained a
- 18 statement that in light of the circumstances under which it
- was made is false or misleading with respect to a material
- 20 fact.
- 21 (2) The person has violated or failed to comply with
- this act, the Real Estate Appraisers Certification Act or the
- 23 RELRA.
- 24 (3) The person has pleaded quilty or nolo contendere to
- 25 or been found quilty of:
- 26 (i) A felony.
- 27 (ii) Within the past ten years, a misdemeanor
- involving mortgage lending or real estate appraising,
- 29 breach of trust, moral turpitude or fraudulent or
- 30 dishonest dealing.

- 1 (4) The person is permanently or temporarily enjoined by
- 2 a court of competent jurisdiction from engaging in or
- 3 continuing any conduct or practice involving appraisal
- 4 management services or operating an appraisal management
- 5 company.
- 6 (5) The person is the subject of an order of the board
- 7 or any other state appraisal management company regulatory
- 8 agency denying, suspending or revoking the person's privilege
- 9 to operate as an appraisal management company.
- 10 (6) The person acted as an appraisal management company
- 11 within this Commonwealth while not properly registered by the
- 12 board.
- 13 (b) Criminal penalties. -- A person that violates this act
- 14 commits a misdemeanor of the third degree and shall, upon
- 15 conviction, be sentenced to pay a fine of up to \$1,000 or to
- 16 imprisonment for not more than 90 days, or both.
- 17 (c) Civil penalty. -- In addition to any other civil remedy or
- 18 criminal penalty provided for in this act, the board may levy a
- 19 civil penalty of up to \$10,000 on any registrant who violates
- 20 any provision of this act or any person that holds itself out as
- 21 an appraisal management company in this Commonwealth at a time
- 22 when the person is not registered under this act. The board
- 23 shall levy this penalty only after affording the accused party
- 24 the opportunity for a hearing, as provided in 2 Pa.C.S.
- 25 (relating to administrative law and procedure). All civil
- 26 penalties imposed in accordance with this section shall be paid
- 27 into the Professional Licensure Augmentation Account.
- 28 (d) Procedures. -- The investigation and prosecution of
- 29 disciplinary proceedings under this section shall be conducted
- 30 by the board under the provisions of the Real Estate Appraisers

- 1 Certification Act.
- 2 Section 11. Effective date.
- 3 This act shall take effect in 60 days.