

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 398** Session of  
2011

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FEBRUARY 2, 2011

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AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 6, 2011

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## AN ACT

1 Providing for registration of appraisal management companies,  
2 for powers of the State Board of Certified Real Estate  
3 Appraisers with respect to appraisal management companies,  
4 for the responsibilities and duties of appraisal management  
5 companies, for prohibited activities, for discipline and for  
6 penalties.

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 "Applicant." A person who files an application for

1 registration as an appraisal management company.

2 "Appraisal." The term has the meaning provided in section 2  
3 of the act of July 10, 1990 (P.L.404, No.98), known as the Real  
4 Estate Appraisers Certification Act.

5 "Appraisal management company." A person that provides  
6 appraisal management services and acts as a third-party  
7 intermediary between a person seeking a valuation of real estate  
8 and an appraiser or firm of appraisers.

9 "Appraisal management services." Conducting business by  
10 telephone, by electronic means, by mail or in person directly or  
11 indirectly for compensation or in the expectation of  
12 compensation to manage the performance of appraisals for a  
13 client, including, without limitation:

- 14 (1) Recruiting appraisers.
- 15 (2) Contracting with appraisers to perform appraisals.
- 16 (3) Negotiating fees with appraisers.
- 17 (4) Receiving appraisal orders and appraisals.
- 18 (5) Submitting appraisals received from appraisers to  
19 the client.
- 20 (6) Providing related administrative and clerical  
21 duties.

22 "Appraisal review." The act or process of developing and  
23 communicating an opinion about the quality, adequacy or  
24 reasonableness of the work of an appraiser, including the  
25 appraiser's opinions or conclusions developed in an appraisal  
26 assignment, such as value.

27 "Appraiser." An individual certified under the act of July  
28 10, 1990 (P.L.404, No.98), known as the Real Estate Appraisers  
29 Certification Act, as a certified residential appraiser or  
30 certified general appraiser.

1 "Appraiser panel." A group of appraisers that have been  
2 selected by an appraisal management company to perform  
3 appraisals for the appraisal management company.

4 "Board." The State Board of Certified Real Estate Appraisers  
5 within the Bureau of Professional and Occupational Affairs in  
6 the Department of State.

7 "Client." A person that contracts with or otherwise enters  
8 into an agreement with an appraisal management company for the  
9 performance of appraisal management services.

10 "Compliance person." An individual who is employed,  
11 appointed or authorized by an appraisal management company to be  
12 responsible for ensuring compliance with this act.

13 "Exempt company." A person that is exempted by Federal law  
14 from registering under this act.

15 "Key person." A person other than a compliance person who is  
16 a director, officer, supervisor, manager or other person  
17 performing a similar function in an appraisal management  
18 company.

19 "Mortgage Bankers and Brokers and Consumer Equity Protection  
20 Act." The act of December 22, 1989 (P.L.687, No. 90), known as  
21 the Mortgage Bankers and Brokers and Consumer Equity Protection  
22 Act.

23 "REACA." The act of July 10, 1990 (P.L.404, No.98), known as  
24 the Real Estate Appraisers Certification Act.

25 "Registrant." An appraisal management company that is  
26 registered under this act.

27 "RELRA." The act of February 19, 1980 (P.L.15, No.9), known  
28 as the Real Estate Licensing and Registration Act.

29 Section 3. Registration of appraisal management companies  
30 required.

1 (a) General rule.--Except as provided in subsection (b), a  
2 person who is not an exempt company or a registrant may not:

3 (1) Act as an appraisal management company in this  
4 Commonwealth.

5 (2) Hold out as an appraisal management company in this  
6 Commonwealth.

7 (3) Advertise or hold out as engaging in or conducting  
8 the business of an appraisal management company in this  
9 Commonwealth.

10 (b) Exceptions.--This act does not apply to:

11 (1) An appraiser who:

12 (i) in the normal course of business enters into an  
13 agreement, whether written or otherwise, with an  
14 appraiser for the performance of an appraisal; and

15 (ii) under the agreement cosigns the appraisal upon  
16 its completion.

17 (2) A person authorized to engage in business as a  
18 banking institution, credit union or savings association  
19 organized under the laws of this Commonwealth or any other  
20 jurisdiction.

21 Section 4. Powers of the board.

22 (a) Regulations.--The board shall have the powers necessary  
23 to implement, administer and enforce this act, including,  
24 without limitation, the power to adopt rules and regulations  
25 consistent with this act.

26 (b) Guidelines.--In order to facilitate the speedy  
27 implementation of this act, the board shall have the power and  
28 authority to promulgate, adopt and use guidelines to prescribe  
29 the procedures, forms and standards required for registration  
30 under this section, subject to the following provisions:

1 (1) Guidelines promulgated under this subsection shall  
2 be published in the Pennsylvania Bulletin.

3 (2) Guidelines promulgated under this subsection shall  
4 be submitted for review pursuant to the procedures set forth  
5 in section 4 of Executive Order 1996-1.

6 (3) Guidelines promulgated under this subsection shall  
7 not be subject to review under:

8 (i) Section 205 of the act of July 31, 1968  
9 (P.L.769, No.240), referred to as the Commonwealth  
10 Documents Law.

11 (ii) Sections 204(b) and 301(10) of the act of  
12 October 15, 1980 (P.L.950, No.164), known as the  
13 Commonwealth Attorneys Act.

14 (iii) The act of June 25, 1982 (P.L.633, No.181),  
15 known as the Regulatory Review Act.

16 (4) Guidelines promulgated under this subsection shall  
17 be effective for a period not to exceed the effective date of  
18 a final rulemaking promulgated by the board pursuant to the  
19 authority granted in subsection (a), or two years from the  
20 effective date of this act, whichever is earlier.

21 Section 5. Requirements for registration.

22 (a) Application.--Before acting or offering to act as an  
23 appraisal management company in this Commonwealth, a person that  
24 is not an exempt company shall make written application to the  
25 board for registration accompanied by the required fee and bond.

26 (b) Required information.--The application shall contain  
27 such information as the board shall require, including, without  
28 limitation, the following information:

29 (1) The name, business street address, telephone number  
30 and other contact information of the applicant.

1           (2) If the applicant is not an individual and is  
2 incorporated or otherwise formed under the laws of a  
3 jurisdiction other than this Commonwealth, documentation that  
4 the applicant is authorized to transact business in this  
5 Commonwealth.

6           (3) The name, street address, telephone number and other  
7 contact information of any person that owns 10% or more of  
8 the applicant.

9           (4) The name, street address, telephone number and other  
10 contact information of the applicant's compliance person.

11           (5) A certification that the applicant:

12               (i) Has a system in place to verify that a person  
13 being added to an appraiser panel of the applicant or who  
14 will otherwise perform appraisals for the applicant of  
15 property located in this Commonwealth is certified and in  
16 good standing in this Commonwealth under REACA.

17               (ii) Has a system in place for the performance of  
18 appraisal reviews with respect to the work of all  
19 appraisers that are performing appraisals for the  
20 applicant of property located in this Commonwealth to  
21 determine whether the appraisals are being conducted in  
22 conformance with the minimum standards under REACA both  
23 on a periodic basis and whenever requested by a client.

24               (iii) Maintains a detailed record of each request  
25 for an appraisal that it receives, the appraiser assigned  
26 to perform the appraisal, the fees received from the  
27 client for the appraisal and the payment to the  
28 appraiser.

29           (6) Any discipline imposed on the applicant in this  
30 Commonwealth or any other state under any law regulating

1 appraisers, appraisal management companies or real estate  
2 brokers or salespersons.

3 (7) Any other information required by rules and  
4 regulations of the board.

5 (c) Requirements for registration.--The board shall register  
6 an applicant as an appraisal management company in this  
7 Commonwealth upon:

8 (1) Receipt of a properly completed application.

9 (2) Payment of the required fee.

10 (3) Posting of the required bond.

11 (4) A determination by the board that the activities of  
12 the applicant will be directed and conducted by persons of  
13 good moral character as defined in the rules and regulations  
14 of the board.

15 (d) Denial of application.--

16 (1) If the board finds that there is reason to deny the  
17 application for registration, the board shall notify the  
18 applicant that the application has been denied and shall  
19 afford the applicant an opportunity for a hearing before the  
20 board to show cause why the application should not be denied.

21 (2) All proceedings concerning the denial of an  
22 application for registration shall be governed by 2 Pa.C.S.  
23 (relating to administrative law and procedure).

24 (e) Construction.--The acceptance by the board of an  
25 application for registration does not constitute the approval of  
26 its contents or waive the authority of the board to take  
27 disciplinary action under this act.

28 Section 6. Fees and renewals.

29 (a) Filing fees.--The fee to file an application for  
30 registration or renewal of a registration under this act shall

1 be \$1,000 or such other amounts as are set by the rules and  
2 regulations of the board.

3 (b) Bond.--

4 (1) In addition to the filing fee, each applicant for  
5 registration shall post with the board and maintain a surety  
6 bond in the amount of \$20,000, or such other amount as shall  
7 be set by the rules and regulations of the board.

8 (2) The bond shall:

9 (i) Be in the form prescribed by the rules and  
10 regulations of the board.

11 (ii) Accrue to the Commonwealth for the benefit of a  
12 claimant against the registrant to secure the faithful  
13 performance of the registrant's obligations under this  
14 act.

15 (3) The aggregate liability of the surety shall not  
16 exceed the principal sum of the bond.

17 (4) A party having a claim against the registrant may  
18 bring suit directly on the surety bond or the board may bring  
19 suit on behalf of the party having a claim against the  
20 registrant.

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

23 (6) The amount of the bond shall be restored to the full  
24 amount required within 15 days after the payment of any claim  
25 on the bond.

26 (c) Renewal.--

27 (1) Registrations under this act shall be renewed on a  
28 biennial basis for persons in good standing.

29 (2) Failure to timely renew a registration shall result  
30 in a loss of authority to operate under this act.



1 (3) A request to reinstate a registration shall be  
2 accompanied by payment of a penalty of \$50 for each month of  
3 delinquency.

4 (4) The contents of an application for renewal shall be  
5 prescribed by the rules and regulations of the board.

6 Section 7. Responsibilities and duties of appraisal management  
7 companies.

8 (a) Conduct of reviews.--All appraisal reviews, as defined  
9 by the Uniform Standards of Professional Appraisal Practice,  
10 must be conducted by a certified or licensed appraiser in good  
11 standing in this Commonwealth or another state.

12 (b) Records.--

13 (1) An appraisal management company shall maintain or  
14 cause to be maintained:

15 (i) in the case of a registrant, complete records of  
16 its compliance with the certifications required under  
17 section 5(b)(5); and

18 (ii) in all cases, such accounts, correspondence,  
19 memoranda, papers, books and other records as shall be  
20 required by the rules and regulations of the board.

21 (2) The records must be retained for the longer of:

22 (i) five years after their preparation;

23 (ii) two years after final disposition of any  
24 judicial proceeding that involves the actions of the  
25 appraisal management company that are the subject of the  
26 records; or

27 (iii) such other period as shall be required by the  
28 rules and regulations of the board with respect to a  
29 particular class or type of records.

30 (3) The board may inspect the records required by

1 paragraph (1) periodically or if the board determines that  
2 the records are pertinent to an investigation of a complaint  
3 against an appraisal management company.

4 (c) Compliance person.--

5 (1) An appraisal management company shall at all times  
6 have a compliance person.

7 (2) A registrant shall file a form with the board  
8 certifying:

9 (i) The identity of its compliance person.

10 (ii) The individual's acceptance of the  
11 responsibilities of a compliance person.

12 (3) A registrant shall notify the board within 30 days  
13 of a change in its compliance person.

14 (4) An individual registrant who operates as a sole  
15 proprietorship is considered the compliance person under this  
16 act.

17 (d) Updating of board records.--If the information contained  
18 in a document filed with the board is or becomes inaccurate or  
19 incomplete in any material respect, the registrant shall  
20 promptly file an amendment correcting the information contained  
21 in the document.

22 (e) Disclosure.--An appraisal management company shall  
23 disclose to its client the fees paid for an appraisal separately  
24 from any other fees or charges for appraisal management  
25 services.

26 (f) Notice of discipline.--A registrant must notify the  
27 board in writing within 30 days after its occurrence of any  
28 denial, revocation or suspension of its designation,  
29 registration, certificate or license under any law of any  
30 jurisdiction other than this Commonwealth regulating appraisal

1 management companies, the imposition of any other form of  
2 discipline under any such law, or the commencement of a  
3 disciplinary or enforcement action against the registrant under  
4 any such law.

5 (g) Provision of sales contract.--Whenever an appraisal  
6 management company requests an appraiser to perform an  
7 appraisal, the appraisal management company must make a  
8 reasonable effort to provide in a timely manner to the appraiser  
9 a copy of the contract for the underlying transaction, along  
10 with legal descriptions and any other documents pertinent to the  
11 assignment.

12 Section 8. Prohibited activities.

13 (a) Improper influence.--An employee, key person, compliance  
14 person or agent of an appraisal management company shall not  
15 improperly influence or attempt to improperly influence the  
16 development, reporting, result or review of an appraisal,  
17 including, without limitation, through the use of intimidation,  
18 coercion, extortion, bribery, blackmail, threat of nonpayment or  
19 withholding payment for an appraisal or threat of exclusion from  
20 future appraisal work.

21 (b) Other prohibitions.--A registrant or exempt company  
22 shall not:

23 (1) Hire, employ or in any way contract with or pay a  
24 person who is not an appraiser and who holds a license under  
25 the RELRA to perform a valuation of real estate unless it is  
26 a comparative market analysis as defined in section 201 of  
27 the RELRA.

28 (2) Require an appraiser to provide the registrant or  
29 exempt company with the appraiser's digital signature or  
30 seal.

1           (3) Alter, amend or change an appraisal submitted by an  
2 appraiser, including, without limitation, by:

3           (i) removing the appraiser's signature or seal; or

4           (ii) adding or removing information to or from the  
5 appraisal.

6           (4) Remove an appraiser from an appraiser panel without  
7 prior written notice to the appraiser. The notice must  
8 include evidence of:

9           (i) illegal conduct by the appraiser;

10           (ii) a violation of the minimum reporting standards  
11 under the REACA or other applicable statute or  
12 regulation;

13           (iii) substandard performance; or

14           (iv) otherwise improper or unprofessional behavior.

15           (5) Enter into a contract or agreement with an appraiser  
16 for the performance of appraisals unless the appraiser is  
17 certified and in good standing with the board.

18           (6) Request that an appraiser provide:

19           (i) an estimated, predetermined or desired valuation  
20 in an appraisal; or

21           (ii) estimated values or comparable sales at any  
22 time before the appraiser completes an appraisal.

23           (7) Except as provided in section 7(g), provide to an  
24 appraiser an anticipated, estimated, encouraged or desired  
25 value for a property or a proposed or target amount to be  
26 loaned to the borrower.

27           (8) Commit an act or practice that impairs or attempts  
28 to impair an appraiser's independence, objectivity or  
29 impartiality or solicit an appraiser to violate this act or  
30 the RELRA.

1 (9) Prohibit an appraiser from recording the fee the  
2 appraiser was paid for the performance of an appraisal in the  
3 appraisal report.

4 (c) Construction.--Subsection (a) does not prohibit an  
5 appraisal management company from requesting that an appraiser:

6 (1) Provide additional information about the basis for a  
7 valuation.

8 (2) Correct objective factual errors in an appraisal.

9 (3) Provide further detail, substantiation or  
10 explanation for the appraiser's value conclusion, including,  
11 without limitation, the applicability of additional  
12 comparables as presented.

13 (d) Owners and employees.--

14 (1) Except as provided in paragraph (2), a person that  
15 has been denied registration under this act or a similar law  
16 of another jurisdiction or that would be disqualified from  
17 eligibility to be certified or licensed under the REACA may  
18 not be:

19 (i) a key person or compliance person; or

20 (ii) directly involved in the provision of appraisal  
21 services by an appraisal management company as an  
22 employee or in any other capacity.

23 (2) Paragraph (1) shall cease to apply at such time as a  
24 person is subsequently registered under this act or becomes  
25 eligible to be certified or licensed under the REACA.

26 Section 9. Registry of applicants and roster.

27 (a) Registry.--The board shall keep a register of all  
28 applicants for registration showing:

29 (1) The date of application.

30 (2) The applicant's name.

1 (3) The applicant's business street address.

2 (4) Whether the registration was granted or denied.

3 (b) Roster.--The board shall keep a current roster showing  
4 for each registrant registered at any time with the board:

5 (1) Its last known name and street address.

6 (2) A unique identification number.

7 (c) Effect and availability of records.--The register and  
8 roster shall be prima facie evidence of all matters contained  
9 therein. The register and roster shall be kept on file in the  
10 office of the board and shall be open for public inspection. The  
11 board shall also post the roster on its Internet website.

12 Section 10. Disciplinary and corrective measures.

13 (a) Authority of board.--The board may impose disciplinary  
14 or corrective action as set forth in subsection (b) upon an  
15 applicant, registrant, exempt company, person acting as an  
16 appraisal management company, person holding out as an appraisal  
17 management company or person advertising or holding out as  
18 engaging in or conducting the business of an appraisal  
19 management company, for any of the following causes:

20 (1) The appraisal management company's application for  
21 registration or renewal of registration when filed contained  
22 a statement that in light of the circumstances under which it  
23 was made is false or misleading with respect to a material  
24 fact.

25 (2) The applicant, registrant, exempt company, its  
26 compliance person or key person, has violated or failed to  
27 comply with:

28 (i) This act, or the regulations or guidelines  
29 promulgated by the board for the administration and  
30 enforcement of this act.

1           (ii) The REACA or the regulations or guidelines  
2 promulgated by the board for the administration and  
3 enforcement of the REACA.

4           (3) The State Real Estate Commission has found the  
5 applicant, registrant, exempt company, compliance person or  
6 key person in violation of RELRA or the regulations to  
7 administer and effectuate the purposes of the RELRA.

8           (4) The Department of Banking or a court of competent  
9 jurisdiction has found the applicant, registrant, exempt  
10 company, compliance person or key person in violation of the  
11 provisions of 7 Pa.C.S. Ch.61 (relating to mortgage loan  
12 industry licensing and consumer protection) or the Mortgage  
13 Bankers and Brokers and Consumer Equity Protection Act.

14           (5) The applicant, registrant, exempt company,  
15 compliance person or key person has been convicted of:

16           (i) A felony.

17           (ii) Within the past ten years, a misdemeanor  
18 involving mortgage lending or real estate appraising,  
19 breach of trust, moral turpitude or fraudulent or  
20 dishonest dealing.

21           (6) The applicant, registrant, exempt company,  
22 compliance person or key person is permanently or temporarily  
23 enjoined by a court of competent jurisdiction from engaging  
24 in or continuing any conduct or practice involving appraisal  
25 management services or operating an appraisal management  
26 company.

27           (7) The applicant, registrant, exempt company,  
28 compliance person or key person is the subject of an order of  
29 the board or any other state appraisal management company  
30 regulatory agency denying, suspending or revoking the

1 person's privilege to operate as an appraisal management  
2 company, or other disciplinary actions by an agency of  
3 another jurisdiction responsible for regulating appraisers,  
4 mortgage brokers, real estate salespersons or real estate  
5 brokers.

6 (8) The person was not an exempt company or registrant  
7 and:

8 (i) Acted as an appraisal management company.

9 (ii) Held out as an appraisal management company  
10 within this Commonwealth.

11 (iii) Advertised or held out as engaging in or  
12 conducting the business of an appraisal management  
13 company

14 (b) Board action.--When the board finds any of the causes  
15 listed in subsection (a) supported by substantial evidence the  
16 board may:

17 (1) Deny, suspend, revoke or refuse to issue or renew  
18 the registration of an appraisal management company under  
19 this act.

20 (2) Restrict, reprimand, limit or suspend enforcement of  
21 its findings and place the appraisal management company on  
22 probation with the right to vacate the probation for  
23 noncompliance.

24 (3) In lieu of imposing a sanction authorized by  
25 paragraph (1), the board may order the removal, replacement  
26 or restriction of a compliance person or a key person found  
27 to have committed any of the violations of subsection (a) as  
28 a condition of approving, renewing or retaining an  
29 applicant's or registrant's registration.

30 (4) In lieu of imposing a sanction authorized by



1 paragraph (1), the board may order a person found to have  
2 committed any of the violations of subsection (a) and that  
3 owns an interest in or participates in the business of an  
4 appraisal management company to divest partially or wholly of  
5 such interest or participation as a condition of granting,  
6 renewing or retaining an applicant's or registrant's  
7 registration.

8 (5) Levy a civil penalty or costs of investigation under  
9 subsection ~~(e)~~ (D) or the act of July 2, 1993, (P.L.345, ←  
10 No.48), entitled "An act empowering the General Counsel or  
11 his designee to issue subpoenas for certain licensing board  
12 activities; providing for hearing examiners in the Bureau of  
13 Professional and Occupational Affairs; providing additional  
14 powers to the Commissioner of Professional and Occupational  
15 Affairs; and further providing for civil penalties and  
16 license suspension."

17 (6) Require bond or other security in addition to the  
18 requirements of section 6 (b) and regulations of the board  
19 promulgated pursuant to that subsection.

20 (c) Criminal penalties.--A person that violates this act  
21 commits a misdemeanor of the third degree and shall, upon  
22 conviction, be sentenced to pay a fine of up to \$1,000 or to  
23 imprisonment for not more than 90 days, or both.

24 (d) Civil penalty.--In addition to any other civil remedy or  
25 criminal penalty provided for in this act, the board may levy a  
26 civil penalty of up to \$10,000 on any person that violates any  
27 provision of this act or any person that acts as an appraisal  
28 management company, holds out as an appraisal management company  
29 in this Commonwealth or advertises or holds out as engaging in  
30 or conducting the business of an appraisal management company at

1 a time when the person is not an exempt company or registered  
2 under this act. The board shall levy this penalty only after  
3 affording the accused party the opportunity for a hearing, as  
4 provided in 2 Pa.C.S. (relating to administrative law and  
5 procedure). All civil penalties imposed in accordance with this  
6 section shall be paid into the Professional Licensure  
7 Augmentation Account.

8 (e) Procedures.--The investigation and prosecution of  
9 disciplinary proceedings under this section shall be conducted  
10 by the board under the provisions of the REACA.

11 Section 11. Effective date.

12 This act shall take effect in 60 days.