



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2956

Introduced 2/23/2011, by Rep. Angelo Saviano - Robert Rita

SYNOPSIS AS INTRODUCED:

New Act

Creates the Appraisal Management Company Registration Act. Provides for registration of appraisal management companies with the Department of Financial and Professional Regulation. Beginning January 1, 2012, provides that it is unlawful for a person or entity to act or assume to act as an appraisal management company as defined in this Act, to engage in the business of appraisal management service, or to advertise or hold himself or herself out to be a registered appraisal management company without first obtaining a certificate of registration issued by the Department under this Act. Includes provisions concerning exemption from the Act. Provides that persons practicing as an appraisal management company in Illinois on the effective date of the Act may continue to practice until the Department has adopted rules implementing the Act. Provides that persons shall apply for registration within 180 days after the effective date of the rules and the person may continue to practice until the Department acts to grant or deny registration. Provides that each entity registered under this Act shall designate a controlling person who is responsible to assure that the company operates in compliance with this Act. Sets forth the powers and duties of the Department, registration qualifications, grounds for discipline, civil and criminal penalties, and administrative procedure. Sets forth provisions concerning standards of practice and prohibited activities. Preempts home rule. Effective immediately.

LRB097 08576 CEL 48703 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Appraisal Management Company Registration Act.

6 Section 5. Findings. The General Assembly finds that: It
7 is the intent of the General Assembly that this Act provide for
8 the regulation of those persons or entities engaged as
9 appraisal management companies for the protection of the public
10 and for the maintenance of high standards of professional
11 conduct by those registered as appraisal management companies
12 and to ensure appraisal independence in the determination of
13 real estate valuations.

14 Section 10. Definitions. In this Act:

15 "Address of record" means the designated address recorded
16 by the Department in the applicant's or registrant's
17 application file or registration file maintained by the
18 Department's registration maintenance unit. It is the duty of
19 the applicant or registrant to inform the Department of any
20 change of address, and the changes must be made either through
21 the Department's website or by contacting the Department's
22 registration maintenance unit within a prescribed time period

1 as defined by rule.

2 "Applicant" means a person or entity who applies to the
3 Department for a registration under this Act.

4 "Appraisal" means (noun) the act or process of developing
5 an opinion of value; an opinion of value (adjective) of or
6 pertaining to appraising and related functions.

7 "Appraisal management company" means any corporation,
8 limited liability company, partnership, sole proprietorship,
9 subsidiary, unit, or other business entity that directly or
10 indirectly performs the following appraisal management
11 services: (1) administers networks of independent contractors
12 or employee appraisers to perform real estate appraisal
13 assignments for clients; (2) receives requests for real estate
14 appraisal services from clients and, for a fee paid by the
15 client, enters into an agreement with one or more independent
16 appraisers to perform the real estate appraisal services
17 contained in the request; or (3) otherwise serves as a
18 third-party broker of appraisal management services between
19 clients and appraisers.

20 "Appraisal report" means a written appraisal by an
21 appraiser to a client.

22 "Appraisal practice service" means valuation services
23 performed by an individual acting as an appraiser, including,
24 but not limited to, appraisal, appraisal review, or appraisal
25 consulting.

26 "Appraiser" means a person who performs real estate or real

1 property appraisals.

2 "Assignment result" means an appraiser's opinions and
3 conclusions developed specific to an assignment.

4 "Board" means the Real Estate Appraisal Administration and
5 Disciplinary Board.

6 "Client" means the party or parties who engage an appraiser
7 by employment or contract in a specific appraisal assignment.

8 "Controlling Person" means:

9 (1) an owner, officer, or director of an entity seeking
10 to offer appraisal management services;

11 (2) an individual employed, appointed, or authorized
12 by an appraisal management company who has the authority
13 to:

14 (A) enter into a contractual relationship with a
15 client for the performance of an appraisal management
16 service or appraisal practice service; and

17 (B) enter into an agreement with an appraiser for
18 the performance of a real estate appraisal activity; or

19 (3) an individual who possesses, directly or
20 indirectly, the power to direct or cause the direction of
21 the management or policies of an appraisal management
22 company.

23 "Coordinator" means the Coordinator of the Appraisal
24 Management Company Registration Unit of the Department or his
25 or her designee.

26 "Department" means the Department of Financial and

1 Professional Regulation.

2 "Entity" means a corporation, a limited liability company,
3 partnership, a sole proprietorship, or other entity providing
4 services or holding itself out to provide services as an
5 appraisal management company or an appraisal management
6 service.

7 "End-user client" means any person who utilizes or engages
8 the services of an appraiser through an appraisal management
9 company.

10 "Financial institution" means any bank, savings bank,
11 savings and loan association, credit union, mortgage broker,
12 mortgage banker, registrant under the Consumer Installment
13 Loan Act or the Sales Finance Agency Act, or a corporate
14 fiduciary, subsidiary, affiliate, parent company, or holding
15 company of any registrant, or any institution involved in real
16 estate financing that is regulated by State or federal law.

17 "Person" means individuals, entities, sole
18 proprietorships, corporations, limited liability companies,
19 and partnerships, foreign or domestic, except that when the
20 context otherwise requires, the term may refer to a single
21 individual or other described entity.

22 "Quality control review" means a review of an appraisal
23 report for compliance and completeness, including grammatical,
24 typographical, or other similar errors, unrelated to
25 developing an opinion of value.

26 "Real estate" means an identified parcel or tract of land,

1 including any improvements.

2 "Real estate related financial transaction" means any
3 transaction involving:

4 (1) the sale, lease, purchase, investment in, or
5 exchange of real property, including interests in property
6 or the financing thereof;

7 (2) the refinancing of real property or interests in
8 real property; and

9 (3) the use of real property or interest in property as
10 security for a loan or investment, including mortgage
11 backed securities.

12 "Real property" means the interests, benefits, and rights
13 inherent in the ownership of real estate.

14 "Secretary" means the Secretary of Financial and
15 Professional Regulation.

16 "USPAP" means the Uniform Standards of Professional
17 Appraisal Practice as adopted by the Appraisal Standards Board
18 under Title XI.

19 "Valuation" means any estimate of the value of real
20 property in connection with a creditor's decision to provide
21 credit, including those values developed under a policy of a
22 government sponsored enterprise or by an automated valuation
23 model, a broker price opinion, or other methodology or
24 mechanism.

25 Section 15. Exemptions. Nothing in this Act shall to apply

1 to any of the following:

2 (1) an agency of the federal, State, county, or
3 municipal government or an officer or employee of a
4 government agency, or person, described in this Section
5 when acting within the scope of employment of the officer
6 or employee;

7 (2) a corporate relocation company whereby the
8 appraisal is not used for mortgage purposes and the end
9 user client is an employer company;

10 (3) a real estate broker or real estate managing broker
11 licensed by the Department performing activities regulated
12 by the Department, unless the real estate broker or real
13 estate managing broker licensed by the Department receives
14 compensation or other pecuniary gain in connection with the
15 referral, placement, or execution of a request for
16 appraisal practice services;

17 (4) any person licensed in this State under any other
18 Act from engaging in the practice for which he or she is
19 licensed;

20 (5) any person licensed to practice law in this State
21 who is working with or on behalf of a client of that person
22 in connection with one or more appraisals for that client;
23 or

24 (6) an appraiser that enters into an agreement, whether
25 written or otherwise, with another appraiser for the
26 performance of an appraisal, and upon the completion of the

1 appraisal, the report of the appraiser performing the
2 appraisal is signed by both the appraiser who completed the
3 appraisal and the appraiser who requested the completion of
4 the appraisal, except that an appraisal management company
5 may not avoid the requirement of registration under this
6 Act by requiring an employee of the appraisal management
7 company who is an appraiser to sign an appraisal that was
8 completed by another appraiser who is part of the appraisal
9 panel of the appraisal management company.

10 (7) an appraisal management company that is owned and
11 controlled by a financial institution regulated by a
12 federal financial institution's regulatory agency; an
13 appraisal management company claiming this exemption shall
14 notify the Department of their intent to claim this
15 exemption in writing within 180 days after the date that
16 the Department begins accepting applications for
17 registration under this Act.

18 Section 20. Restrictions and limitations. Beginning
19 January 1, 2012, it is unlawful for a person or entity to act
20 or assume to act as an appraisal management company as defined
21 in this Act, to engage in the business of appraisal management
22 service, or to advertise or hold himself or herself out to be a
23 registered appraisal management company without first
24 obtaining a registration issued by the Department under this
25 Act. A person or entity that violates this Section is guilty of

1 a Class A misdemeanor for the first offense and a Class 4
2 felony for second and subsequent offenses.

3 Persons practicing as an appraisal management company in
4 Illinois as of the effective date of this Act may continue to
5 practice as provided in this Act until the Department has
6 adopted rules implementing this Act. To continue practicing as
7 an appraisal management company after the adoption of rules,
8 persons shall apply for registration within 180 days after the
9 effective date of the rules. If an application is received
10 during the 180-day period, the person may continue to practice
11 until the Department acts to grant or deny registration. If an
12 application is not filed within the 180-day period, the person
13 must cease the practice at the conclusion of the 180-day period
14 and until the Department acts to grant a registration to the
15 person.

16 Section 25. Powers and duties of the Department. Subject
17 to the provisions of this Act:

18 (1) The Department may ascertain the qualifications
19 and fitness of applicants for registration and pass upon
20 the qualifications of applicants for registration.

21 (2) The Department may conduct hearings on proceedings
22 to refuse to issue or renew or to revoke registrations or
23 suspend, place on probation, or reprimand persons or
24 otherwise discipline individuals or entities subject to
25 this Act.

1 (3) The Department may formulate all rules required for
2 the administration of this Act. With the exception of
3 emergency rules, any proposed rules, amendments, second
4 notice materials, and adopted rule or amendment materials
5 or policy statements concerning appraisal management
6 companies shall be presented to the Real Estate Appraisal
7 Administration and Disciplinary Board for review and
8 comment. The recommendations of the Board shall be
9 presented to the Secretary for consideration in making
10 final decisions.

11 (4) The Department may maintain rosters of the names
12 and addresses of all registrants, and all persons whose
13 registrations have been suspended, revoked, or denied
14 renewal for cause within the previous calendar year or
15 otherwise disciplined. These rosters shall be available
16 upon written request and payment of the required fee as
17 established by rule.

18 Section 30. Coordinator of Appraisal Management Company
19 Registration. The Coordinator of Real Estate Appraisal shall
20 serve as the Coordinator of Appraisal Management Company
21 Registration. The Coordinator shall have the same duties and
22 responsibilities in regards to appraisal management company
23 registration as the Coordinator has in regards to appraisal
24 licensure as set forth in the Real Estate Appraiser Licensing
25 Act of 2002.

1 Section 35. Application for original registration.
2 Applications for original registration shall be made to the
3 Department on forms prescribed by the Department and
4 accompanied by the required fee. All applications shall contain
5 the information that, in the judgment of the Department, will
6 enable the Department to pass on the qualifications of the
7 applicant to be registered to practice as set by rule.

8 Section 40. Qualifications for registration.

9 (a) The Department may issue a certification of
10 registration to practice under this Act to any applicant who
11 applies to the Department on forms provided by the Department,
12 pays the required non-refundable fee, and who provides the
13 following:

14 (1) the business name of the applicant seeking
15 registration;

16 (2) the business address or addresses and contact
17 information of the applicant seeking registration;

18 (3) if the business applicant is not a corporation that
19 is domiciled in this State, then the name and contact
20 information for the company's agent for service of process
21 in this State;

22 (4) the name, address, and contact information for any
23 individual or any corporation, partnership, limited
24 liability company, association, or other business

1 applicant that owns 10% or more of the appraisal management
2 company;

3 (5) the name, address, and contact information for a
4 designated controlling person;

5 (6) a certification that the applicant will utilize
6 Illinois licensed appraisers to provide appraisal services
7 within the State of Illinois;

8 (7) a certification that the applicant has a system in
9 place utilizing a licensed Illinois appraiser to review the
10 work of all employed and independent appraisers that are
11 performing real estate appraisal services in Illinois for
12 the appraisal management company on a periodic basis,
13 except for a quality control review, to verify that the
14 real estate appraisal assignments are being conducted in
15 accordance with USPAP;

16 (8) a certification that the applicant maintains a
17 detailed record of each service request that it receives
18 and the independent appraiser that performs the real estate
19 appraisal services for the appraisal management company;

20 (9) a certification that the employees of the appraisal
21 management company working on behalf of the appraisal
22 management company directly involved in providing
23 appraisal management services, will be appropriately
24 trained and familiar with the appraisal process to
25 completely provide appraisal management services;

26 (10) an irrevocable Uniform Consent to Service of

1 Process, under rule; and

2 (11) a certification that the applicant shall comply
3 with all other requirements of this Act and rules
4 established for the implementation of this Act.

5 (b) Applicants have 3 years from the date of application to
6 complete the application process. If the process has not been
7 completed in 3 years, the application shall be denied, the fee
8 shall be forfeited, and the applicant must reapply and meet the
9 requirements in effect at the time of reapplication.

10 Section 45. Expiration and renewal of registration. The
11 expiration date and renewal period for each registration shall
12 be set by rule. A registrant whose registration has expired may
13 reinstate his or her registration at any time within 5 years
14 after the expiration thereof, by making a renewal application
15 and by paying the required fee.

16 Any registrant whose registration has expired for more than
17 5 years may have it restored by making application to the
18 Department, paying the required fee, and filing acceptable
19 proof of fitness to have the registration restored as set by
20 rule.

21 Section 50. Bonds of registrants. All registrants shall
22 maintain a bond in accordance with this Section. Each bond
23 shall be for the recovery of expenses, fines, or fees due to or
24 levied by the Department in accordance with this Act. The bond

1 shall be payable when the registrant fails to comply with any
2 provisions of this Act and shall be in the form of a surety
3 bond in the amount of \$25,000 as prescribed by the Department
4 by rule. The bond shall be payable to the Department and shall
5 be issued by an insurance company authorized to do business in
6 this State. A copy of the bond, including any and all riders
7 and endorsements executed subsequent to the effective date of
8 the bond, shall be placed on file with the Department within 10
9 days of the execution thereof. The bond may only be used for
10 the recovery of expenses or the collection of fines or fees due
11 to or levied by the Department and is not to be utilized for
12 any other purpose.

13 Section 55. Fees.

14 (a) The fees for the administration and enforcement of this
15 Act, including, but not limited to, original registration,
16 renewal, and restoration fees, shall be set by the Department
17 by rule. The fees shall not be refundable.

18 (b) All fees and other moneys collected under this Act
19 shall be deposited in the Appraisal Administration Fund.

20 Section 60. Returned checks; fines. Any person who
21 delivers a check or other payment to the Department that is
22 returned to the Department unpaid by the financial institution
23 upon which it is drawn shall pay to the Department, in addition
24 to the amount already owed to the Department, a fine of \$50.

1 The fines imposed by this Section are in addition to any other
2 discipline provided under this Act for unregistered practice or
3 practice on a nonrenewed registration. The Department shall
4 notify the person that payment of fees and fines shall be paid
5 to the Department by certified check or money order within 30
6 calendar days of the notification. If, after the expiration of
7 30 days after the date of the notification, the person has
8 failed to submit the necessary remittance, the Department shall
9 automatically terminate the registration or deny the
10 application, without hearing. If, after termination or denial,
11 the person seeks a registration, he or she shall apply to the
12 Department for restoration or issuance of the registration and
13 pay all fees and fines due to the Department. The Department
14 may establish a fee for the processing of an application for
15 restoration of a registration to pay all expenses of processing
16 this application. The Secretary may waive the fines due under
17 this Section in individual cases where the Secretary finds that
18 the fines would be unreasonable or unnecessarily burdensome.

19 Section 65. Disciplinary actions.

20 (a) The Department may refuse to issue or renew, or may
21 revoke, suspend, place on probation, reprimand, or take other
22 disciplinary or non-disciplinary action as the Department may
23 deem appropriate, including imposing fines not to exceed
24 \$25,000 for each violation, with regard to any registration for
25 any one or combination of the following:

1 (1) Material misstatement in furnishing information to
2 the Department.

3 (2) Violations of this Act, or of the rules adopted
4 under this Act.

5 (3) Conviction of, or entry of a plea of guilty or nolo
6 contendere to any crime that is a felony under the laws of
7 the United States or any state or territory thereof or that
8 is a misdemeanor of which an essential element is
9 dishonesty, or any crime that is directly related to the
10 practice of the profession.

11 (4) Making any misrepresentation for the purpose of
12 obtaining registration or violating any provision of this
13 Act or the rules adopted under this Act pertaining to
14 advertising.

15 (5) Professional incompetence.

16 (6) Gross malpractice.

17 (7) Aiding or assisting another person in violating any
18 provision of this Act or rules adopted under this Act.

19 (8) Failing, within 30 days after requested, to provide
20 information in response to a written request made by the
21 Department.

22 (9) Engaging in dishonorable, unethical, or
23 unprofessional conduct of a character likely to deceive,
24 defraud, or harm the public.

25 (10) Discipline by another state, District of
26 Columbia, territory, or foreign nation, if at least one of

1 the grounds for the discipline is the same or substantially
2 equivalent to those set forth in this Section.

3 (11) A finding by the Department that the registrant,
4 after having his or her registration placed on probationary
5 status, has violated the terms of probation.

6 (12) Willfully making or filing false records or
7 reports in his or her practice, including, but not limited
8 to, false records filed with State agencies or departments.

9 (13) Filing false statements for collection of fees for
10 which services are not rendered.

11 (14) Practicing under a false or, except as provided by
12 law, an assumed name.

13 (15) Fraud or misrepresentation in applying for, or
14 procuring, a registration under this Act or in connection
15 with applying for renewal of a registration under this Act.

16 (16) Being adjudicated liable in a civil proceeding for
17 violation of a state or federal fair housing law.

18 (17) Failure to obtain or maintain the bond required
19 under Section 50 of this Act.

20 (b) The Department may refuse to issue or may suspend
21 without hearing as provided for in the Civil Administrative
22 Code the registration of any person who fails to file a return,
23 or to pay the tax, penalty or interest shown in a filed return,
24 or to pay any final assessment of the tax, penalty, or interest
25 as required by any tax Act administered by the Illinois
26 Department of Revenue, until such time as the requirements of

1 any such tax Act are satisfied.

2 Section 70. Injunctive action; cease and desist order.

3 (a) If any person violates the provisions of this Act, the
4 Secretary, in the name of the People of the State of Illinois,
5 through the Attorney General or the State's Attorney of the
6 county in which the violation is alleged to have occurred, may
7 petition for an order enjoining the violation or for an order
8 enforcing compliance with this Act. Upon the filing of a
9 verified petition, the court with appropriate jurisdiction may
10 issue a temporary restraining order, without notice or bond,
11 and may preliminarily and permanently enjoin the violation. If
12 it is established that the person has violated or is violating
13 the injunction, the court may punish the offender for contempt
14 of court. Proceedings under this Section are in addition to,
15 and not in lieu of, all other remedies and penalties provided
16 by this Act.

17 (b) Whenever, in the opinion of the Department, a person
18 violates any provision of this Act, the Department may issue a
19 rule to show cause why an order to cease and desist should not
20 be entered against that person. The rule shall clearly set
21 forth the grounds relied upon by the Department and shall allow
22 at least 7 days from the date of the rule to file an answer
23 satisfactory to the Department. Failure to answer to the
24 satisfaction of the Department shall cause an order to cease
25 and desist to be issued.

1 Section 75. Investigations; notice and hearing. The
2 Department may investigate the actions of any applicant or of
3 any person or persons rendering or offering to render any
4 services requiring registration under this Act or any person
5 holding or claiming to hold a registration as an appraisal
6 management company. The Department shall, before revoking,
7 suspending, placing on probation, reprimanding, or taking any
8 other disciplinary or non-disciplinary action under Section 65
9 of this Act, at least 30 days before the date set for the
10 hearing, (i) notify the accused in writing of the charges made
11 and the time and place for the hearing on the charges, (ii)
12 direct him or her to file a written answer to the charges with
13 the Department under oath within 20 days after the service on
14 him or her of the notice, and (iii) inform the accused that, if
15 he or she fails to answer, default will be taken against him or
16 her or that his or her registration may be suspended, revoked,
17 placed on probationary status, or other disciplinary action
18 taken with regard to the registration, including limiting the
19 scope, nature, or extent of his or her practice, as the
20 Department may consider proper. At the time and place fixed in
21 the notice, the Department shall proceed to hear the charges
22 and the parties or their counsel shall be accorded ample
23 opportunity to present any pertinent statements, testimony,
24 evidence, and arguments. The Department may continue the
25 hearing from time to time. In case the person, after receiving

1 the notice, fails to file an answer, his or her registration
2 may, in the discretion of the Department, be suspended,
3 revoked, placed on probationary status, or the Department may
4 take whatever disciplinary action considered proper, including
5 limiting the scope, nature, or extent of the person's practice
6 or the imposition of a fine, without a hearing, if the act or
7 acts charged constitute sufficient grounds for that action
8 under this Act. The written notice may be served by personal
9 delivery or by certified mail to the address specified by the
10 accused in his or her last notification with the Department.

11 Section 80. Record of proceedings; transcript. The
12 Department, at its expense, shall preserve a record of all
13 proceedings at the formal hearing of any case. The notice of
14 hearing, complaint, all other documents in the nature of
15 pleadings, written motions filed in the proceedings, the
16 transcripts of testimony, the report of the hearing officer,
17 and orders of the Department shall be in the record of the
18 proceeding. The Department shall furnish a transcript of the
19 record to any person interested in the hearing upon payment of
20 the fee required under Section 2105-115 of the Department of
21 Professional Regulation Law.

22 Section 85. Subpoenas; depositions; oaths. The Department
23 has the power to subpoena documents, books, records, or other
24 materials and to bring before it any person and to take

1 testimony either orally or by deposition, or both, with the
2 same fees and mileage and in the same manner as prescribed in
3 civil cases in the courts of this State.

4 The Secretary and the designated hearing officer have the
5 power to administer oaths to witnesses at any hearing that the
6 Department is authorized to conduct, and any other oaths
7 authorized in any Act administered by the Department.

8 Section 90. Compelling testimony. Any circuit court, upon
9 application of the Department or designated hearing officer may
10 enter an order requiring the attendance of witnesses and their
11 testimony, and the production of documents, papers, files,
12 books, and records in connection with any hearing or
13 investigation. The court may compel obedience to its order by
14 proceedings for contempt.

15 Section 95. Findings and recommendations. At the
16 conclusion of the hearing, the designated hearing officer shall
17 present to the Secretary a written report of his or her
18 findings of fact, conclusions of law, and recommendations. The
19 report shall contain a finding whether or not the accused
20 person violated this Act or its rules or failed to comply with
21 the conditions required in this Act or its rules. The hearing
22 officer shall specify the nature of any violations or failure
23 to comply and shall make his or her recommendations to the
24 Secretary. In making recommendations for any disciplinary

1 actions, the hearing officer may take into consideration all
2 facts and circumstances bearing upon the reasonableness of the
3 conduct of the accused and the potential for future harm to the
4 public, including, but not limited to, previous discipline of
5 the accused by the Department, intent, degree of harm to the
6 public and likelihood of harm in the future, any restitution
7 made by the accused, and whether the incident or incidents
8 contained in the complaint appear to be isolated or represent a
9 continuing pattern of conduct. In making his or her
10 recommendations for discipline, the hearing officer shall
11 endeavor to ensure that the severity of the discipline
12 recommended is reasonably related to the severity of the
13 violation. The report of findings of fact, conclusions of law,
14 and recommendation of the hearing officer shall be the basis
15 for the Department's order refusing to issue, restore, or renew
16 a registration, or otherwise disciplining a registrant. If the
17 Secretary disagrees with the recommendations of the hearing
18 officer, the Secretary may issue an order in contravention of
19 the hearing officer recommendations. The finding is not
20 admissible in evidence against the person in a criminal
21 prosecution brought for a violation of this Act, but the
22 hearing and finding are not a bar to a criminal prosecution
23 brought for a violation of this Act.

24 Section 100. Hearing officer; rehearing. At the conclusion
25 of the hearing, a copy of the hearing officer's report shall be

1 served upon the applicant or registrant by the Department,
2 either personally or as provided in this Act for the service of
3 a notice of hearing. Within 20 days after service, the
4 applicant or registrant may present to the Department a motion
5 in writing for a rehearing, which shall specify the particular
6 grounds for rehearing. The Department may respond to the motion
7 for rehearing within 20 days after its service on the
8 Department. If no motion for rehearing is filed, then upon the
9 expiration of the time specified for filing such a motion, or
10 if a motion for rehearing is denied, then upon denial, the
11 Secretary may enter an order in accordance with recommendations
12 of the hearing officer except as provided in Sections 105 or
13 110 of this Act. If the applicant or registrant orders from the
14 reporting service and pays for a transcript of the record
15 within the time for filing a motion for rehearing, the 20-day
16 period within which a motion may be filed shall commence upon
17 the delivery of the transcript to the applicant or registrant.

18 Section 105. Secretary; rehearing. Whenever the Secretary
19 believes that substantial justice has not been done in the
20 revocation, suspension, or refusal to issue, restore, or renew
21 a registration, or other discipline of an applicant or
22 registrant, he or she may order a rehearing by the same or
23 other hearing officers.

24 Section 110. Appointment of a hearing officer. The

1 Secretary has the authority to appoint any attorney licensed to
2 practice law in the State to serve as the hearing officer in
3 any action for refusal to issue, restore, or renew a
4 registration or to discipline a registrant. The hearing officer
5 has full authority to conduct the hearing. The hearing officer
6 shall report his or her findings of fact, conclusions of law,
7 and recommendations to the Secretary. If the Secretary
8 disagrees with the recommendation of the hearing officer, the
9 Secretary may issue an order in contravention of the
10 recommendation.

11 Section 115. Order or certified copy; prima facie proof.
12 An order or certified copy thereof, over the seal of the
13 Department and purporting to be signed by the Secretary, is
14 prima facie proof that:

15 (1) the signature is the genuine signature of the
16 Secretary; and

17 (2) the Secretary is duly appointed and qualified.

18 Section 120. Restoration of suspended or revoked
19 registration. At any time after the successful completion of a
20 term of suspension or revocation of a registration, the
21 Department may restore it to the registrant, upon the written
22 recommendation of the hearing officer, unless after an
23 investigation and a hearing the Secretary determines that
24 restoration is not in the public interest.

1 Section 125. Surrender of registration. Upon the
2 revocation or suspension of a registration, the registrant
3 shall immediately surrender his or her registration to the
4 Department. If the registrant fails to do so, the Department
5 has the right to seize the registration.

6 Section 130. Summary suspension of a registration. The
7 Secretary may summarily suspend the registration of any
8 registrant under this Act without a hearing, simultaneously
9 with the institution of proceedings for a hearing provided for
10 in Section 75 of this Act, if the Secretary finds that evidence
11 in the Secretary's possession indicates that the continuation
12 of practice by the registrant would constitute an imminent
13 danger to the public. In the event that the Secretary summarily
14 suspends the registration of a registrant under this Section
15 without a hearing, a hearing must be commenced within 30 days
16 after the suspension has occurred and concluded as
17 expeditiously as practical.

18 Section 135. Administrative review; venue.

19 (a) All final administrative decisions of the Department
20 are subject to judicial review under the Administrative Review
21 Law and its rules. The term "administrative decision" is
22 defined as in Section 3-101 of the Code of Civil Procedure.

23 (b) Proceedings for judicial review shall be commenced in

1 the circuit court of the county in which the party applying for
2 review resides, but if the party is not a resident of Illinois,
3 the venue shall be in Sangamon County.

4 Section 140. Certifications of record; costs. The
5 Department shall not be required to certify any record to the
6 court, to file an answer in court, or to otherwise appear in
7 any court in a judicial review proceeding unless and until the
8 Department has received from the plaintiff payment of the costs
9 of furnishing and certifying the record, which costs shall be
10 determined by the Department. Failure on the part of the
11 plaintiff to file the receipt in court is grounds for dismissal
12 of the action.

13 Section 145. Violations. Any person who is found to have
14 violated any provision of this Act is guilty of a Class A
15 misdemeanor. On conviction of a second or subsequent offense,
16 the violator is guilty of a Class 4 felony.

17 Section 150. Civil penalties.

18 (a) In addition to any other penalty provided by law, any
19 person who violates this Act shall forfeit and pay a civil
20 penalty to the Department in an amount not to exceed \$25,000
21 for each violation as determined by the Department. The civil
22 penalty shall be assessed by the Department in accordance with
23 the provisions of this Act.

1 (b) The Department has the authority and power to
2 investigate any and all unregistered activity.

3 (c) The civil penalty shall be paid within 60 days after
4 the effective date of the order imposing the civil penalty. The
5 order shall constitute a judgment and may be filed and
6 execution had thereon in the same manner as any judgment from
7 any court of record.

8 (d) All moneys collected under this Section shall be
9 deposited into the Appraisal Administration Fund.

10 Section 155. Consent order. At any point in the
11 proceedings as provided in this Act, both parties may agree to
12 a negotiated consent order. The consent order shall be final
13 upon signature of the Secretary.

14 Section 160. Business practice provisions; standards of
15 practice.

16 (a) The Department may adopt by rule the Uniform Standards
17 of Professional Appraisal Practice as published from time to
18 time by the Appraisal Standards Board of the Appraisal
19 Foundation. Appraisal management companies shall not interfere
20 with adherence to the Uniform Standards of Professional
21 Appraisal Practice or the Real Estate Appraiser Act of 2002 or
22 a subsequent Act by individuals licensed under the respective
23 Acts.

24 (b) All payment policies from registrants under this Act to

1 appraisers shall be written and definitive in nature.

2 (c) In the event of a value dispute or a requested
3 reconsideration of value, the appraisal management company
4 shall deliver all information that supports an increase or
5 decrease in value to the appraiser. This information may
6 include, but is not limited to, additional comparable sales.

7 (d) Each entity registered under this Act shall designate a
8 controlling person who is responsible to assure that the
9 company operates in compliance with this Act. The company shall
10 file a form provided by the Department indicating the company's
11 designation of the controlling person and such individual's
12 acceptance of the responsibility. A registrant shall notify the
13 Department of any change in its controlling person within 30
14 days. Any registrant who does not comply with this subsection
15 (d) shall have its registration suspended under the provisions
16 set forth in this Act until the registrant complies with this
17 Section. Any individual registrant who operates as a sole
18 proprietorship shall be considered a designated controlling
19 person for the purposes of this Act.

20 (e) Appraisal management companies or employees of an
21 appraisal management company involved in a real estate
22 transaction who have a reasonable basis to believe that an
23 appraiser involved in the preparation of an appraisal for the
24 real estate transaction has failed to comply with the Uniform
25 Standards of Professional Appraisal Practice, has violated
26 this Act or its rules, or has otherwise engaged in unethical

1 conduct shall report the matter to the Department. Any
2 registrant, employee, or individual acting on behalf of a
3 registrant, acting in good faith, and not in a willful and
4 wanton manner, in complying with this Act by reporting the
5 conduct to the Department shall not, as a result of such
6 actions, be subject to criminal prosecution or civil damages.

7 (f) Appraisal management companies are required to be in
8 compliance with the appraisal independence standards
9 established under Section 129E of the federal Truth in Lending
10 Act, including the requirement that fee appraisers be
11 compensated at a customary and reasonable rate when the
12 appraisal management company is providing services for a
13 consumer credit transaction secured by the principal dwelling
14 of a consumer. The appraisal management company must certify to
15 the Department that it has policies and procedures in place to
16 be in compliance, however, the Department may not adopt rules
17 or policies that contradict or change the presumptions of
18 compliance as established under the Final Interim Rule of the
19 federal Dodd-Frank Wall Street Reform and Consumer Protection
20 Act.

21 (g) No appraisal management company procuring or
22 facilitating an appraisal may have a direct or indirect
23 interest, financial or otherwise, in the real estate or the
24 transaction that is the subject of the appraisal, as defined by
25 the federal Dodd-Frank Wall Street Reform and Consumer
26 Protection Act, any amendments thereto, or successor acts or

1 other applicable provisions of federal law or regulations.

2 Section 165. Prohibited activities.

3 (a) No person or entity acting in the capacity of an
4 appraisal management company shall improperly influence or
5 attempt to improperly influence the development, reporting,
6 result, or review of any appraisal by engaging, without
7 limitation, in any of the following:

8 (1) Withholding or threatening to withhold timely
9 payment for a completed appraisal, except where addressed
10 in a mutually agreed upon contract.

11 (2) Withholding or threatening to withhold, either
12 expressed or by implication, future business from, or
13 demoting, or terminating, or threatening to demote or
14 terminate an Illinois licensed or certified appraiser.

15 (3) Expressly or impliedly promising future business,
16 promotions, or increased compensation for an independent
17 appraiser.

18 (4) Conditioning an assignment for an appraisal
19 service or the payment of an appraisal fee or salary or
20 bonus on the opinion, conclusion, or valuation to be
21 reached in an appraisal report.

22 (5) Requesting that an appraiser provide an estimated,
23 predetermined, or desired valuation in an appraisal report
24 or provide estimated values or sales at any time prior to
25 the appraiser's completion of an appraisal report.

1 (6) Allowing or directing the removal of an appraiser
2 from an appraisal panel without prior written notice to the
3 appraiser.

4 (7) Requiring an appraiser to sign a non-compete clause
5 when not an employee of the entity.

6 (8) Requiring an appraiser to sign any sort of
7 indemnification agreement that would require the appraiser
8 to defend and hold harmless the appraisal management
9 company or any of its agents, employees, or independent
10 contractors for any liability, damage, losses, or claims
11 arising out of the services performed by the appraisal
12 management company or its agents, employees, or
13 independent contractors and not the services performed by
14 the appraiser.

15 (9) Prohibiting or attempting to prohibit the
16 appraiser from including or referencing the appraisal fee,
17 the appraisal management company name or identity, or the
18 client's or lender's name or identity within the body of
19 the appraisal report.

20 (10) Require an appraiser to collect a fee from the
21 borrower or occupant of the property to be appraised.

22 (11) Knowingly withholding any end-user client
23 guidelines, policies, requirements, standards, assignment
24 conditions, and special instructions from an appraiser
25 prior to the acceptance of an appraisal assignment.

26 (b) A person or entity may not structure an appraisal

1 assignment or a contract with an independent appraiser for the
2 purpose of evading the provisions of this Act.

3 (c) No registrant or other person or entity may alter,
4 modify, or otherwise change a completed appraisal report
5 submitted by an independent appraiser, including without
6 limitation, by doing either of the following:

7 (1) permanently or temporarily removing the
8 appraiser's signature or seal; or

9 (2) adding information to, or removing information
10 from, the appraisal report with an intent to change the
11 value conclusion or the condition of the property.

12 (d) No appraisal management company may require an
13 appraiser to provide it with the appraiser's digital signature
14 or seal. However, nothing in this Act shall be deemed to
15 prohibit an appraiser from voluntarily providing his or her
16 digital signature or seal to another person on an
17 assignment-by-assignment basis, in accordance with USPAP.

18 (e) Nothing in this Act shall prohibit an appraisal
19 management company from requesting that an appraiser:

20 (1) consider additional appropriate property
21 information, including the consideration of additional
22 comparable properties to make or support an appraisal;

23 (2) provide further detail, substantiation, or
24 explanation for the appraiser's value conclusion; or

25 (3) correct factual errors in the appraisal report.

1 Section 170. Confidentiality. All information collected by
2 the Department in the course of an examination or investigation
3 of a licensee or applicant, including, but not limited to, any
4 complaint against a licensee filed with the Department and
5 information collected to investigate any such complaint, shall
6 be maintained for the confidential use of the Department and
7 shall not be disclosed. The Department may not disclose the
8 information to anyone other than law enforcement officials,
9 other regulatory agencies that have an appropriate regulatory
10 interest as determined by the Secretary, or to a party
11 presenting a lawful subpoena to the Department. Information and
12 documents disclosed to a federal, State, county, or local law
13 enforcement agency shall not be disclosed by the agency for any
14 purpose to any other agency or person. A formal complaint filed
15 against a licensee by the Department or any order issued by the
16 Department against a licensee or applicant shall be a public
17 record, except as otherwise prohibited by law.

18 Section 175. Illinois Administrative Procedure Act;
19 application. The Illinois Administrative Procedure Act is
20 expressly adopted and incorporated in this Act as if all of the
21 provisions of that Act were included in this Act, except that
22 the provision of paragraph (d) of Section 10-65 of the Illinois
23 Administrative Procedure Act, which provides that at hearings
24 the registrant has the right to show compliance with all lawful
25 requirements for retention or continuation or renewal of the

1 registration, is specifically excluded. For the purpose of this
2 Act, the notice required under Section 10-25 of the Illinois
3 Administrative Procedure Act is considered sufficient when
4 mailed to the last known address of a party.

5 Section 180. Home rule. The regulation and registration of
6 practice as an appraisal management company are exclusive
7 powers and functions of the State. A home rule unit may not
8 regulate the practice or require the registration as an
9 appraisal management company. This Section is a denial and
10 limitation of home rule powers and functions under subsection
11 (h) of Section 6 of Article VII of the Illinois Constitution.

12 Section 999. Effective date. This Act takes effect upon
13 becoming law.