

HOUSE BILL NO. 106

INTRODUCED BY T. JACOBSON

BY REQUEST OF THE BOARD OF REAL ESTATE APPRAISERS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REGULATIONS BY THE BOARD OF REAL ESTATE APPRAISERS RELATED TO APPRAISAL MANAGEMENT COMPANIES; PROVIDING FOR REGISTRATION AND OVERSIGHT OF APPRAISAL MANAGEMENT COMPANIES AND COLLECTION AND TRANSMISSION OF FEES; REVISING THE DESCRIPTION OF APPRAISAL MANAGEMENT COMPANY OWNERSHIP; ALLOWING DENIAL OR CANCELLATION OF APPRAISAL MANAGEMENT COMPANY REGISTRATION IF ANY OWNER HAS HAD A LICENSE, CERTIFICATE, OR REGISTRATION DENIED OR REVOKED; AMENDING SECTIONS 37-54-102, 37-54-105, 37-54-112, 37-54-503, AND 37-54-511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-54-102, MCA, is amended to read:

"37-54-102. Definitions. Terms commonly used in appraisal practice and as used in this chapter must be defined according to the uniform standards of professional appraisal practice, as issued by the appraisal foundation. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Appraisal" means the practice of developing an opinion of the value of real property in conformance with the uniform standards of professional appraisal practice as developed by the appraisal foundation.

(2) "Appraisal foundation" means the appraisal foundation incorporated as ~~an Illinois~~ a not-for-profit corporation on November 30, 1987, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3310, et seq. The purposes of the appraisal foundation are to:

(a) establish and improve uniform appraisal standards by defining, issuing, and promoting those standards;

(b) establish appropriate criteria for the licensure and certification of qualified appraisers by defining, issuing, and promoting qualification criteria and disseminate the qualification criteria to states and other governmental entities; and

(c) develop or assist in the development of appropriate examinations for qualified appraisers.

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

6 (4) "Appraisal management services" means the direct or indirect performance of any of the following
7 functions on behalf of a lender, financial institution, client, or other person in conjunction with a consumer credit
8 transaction that is secured by a consumer's principal dwelling:

9 (a) administering an appraiser panel;

10 (b) recruiting, retaining, or selecting appraisers to be part of an appraisal panel;

11 (c) qualifying and verifying licensing or certification, negotiating fees, and verifying service level
12 expectations with appraisers who are part of an appraiser panel;

13 (d) contracting with appraisers from the appraiser panel to perform appraisal assignments;

14 (e) receiving an order for an appraisal assignment from one person and delivering the order for the
15 appraisal assignment to an appraiser who is part of an appraiser panel for completion;

16 (f) managing the process of having an appraisal assignment performed, including performing
17 administrative duties such as receiving appraisal assignment orders and reports, submitting completed appraisal
18 reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and
19 reimbursing appraisers for services performed;

20 (g) tracking and determining the status of orders for appraisal assignments;

21 (h) conducting quality control examinations of a completed appraisal assignment prior to the delivery of
22 the appraisal report to a client who ordered the appraisal assignment; and

23 (i) providing a completed appraisal report performed by an appraiser to one or more clients.

24 (5) (a) "Appraisal review" means the act or process of developing and communicating an opinion about
25 the quality of another appraiser's work that was performed as part of an appraisal assignment.

26 (b) The term does not include a quality control examination.

27 (6) "Appraiser" means an individual who holds a license or certification to complete an appraisal
28 assignment in the state where the real property that is the subject of the appraisal assignment is located.

29 (7) "Appraiser panel" means a network of licensed or certified appraisers who are independent
30 contractors with respect to an appraisal management company and who have:

- 1 (a) responded to an invitation, request, or solicitation from an appraisal management company to:
- 2 (i) perform an appraisal assignment for a client that has ordered an appraisal assignment through the
- 3 appraisal management company; or
- 4 (ii) perform appraisal assignments for the appraisal management company directly ~~on a periodic basis~~
- 5 as requested and assigned by the appraisal management company; and
- 6 (b) been selected and approved by an appraisal management company to perform appraisal
- 7 assignments for any client of the company that has ordered an appraisal assignment through the company or to
- 8 perform appraisal assignments for the appraisal management company directly on a periodic basis as assigned
- 9 by the appraisal management company.
- 10 (8) "Board" means the board of real estate appraisers provided for in 2-15-1758.
- 11 (9) "Certified real estate appraiser" means a person who develops and communicates real estate
- 12 appraisals and who has a valid real estate appraisal certificate issued under 37-54-305.
- 13 (10) "Controlling person" means:
- 14 (a) an owner, officer, or director of a corporation, partnership, or other business entity that offers
- 15 appraisal management services in this state;
- 16 (b) an individual employed, appointed, or authorized by an appraisal management company to enter into
- 17 a contractual relationship with other persons for the performance of appraisal management services and to enter
- 18 into agreements with appraisers for the performance of appraisal assignments; or
- 19 (c) an individual who possesses directly or indirectly the power to direct or cause the direction of the
- 20 management or policies of an appraisal management company.
- 21 (11) "Department" means the department of labor and industry provided for in 2-15-1701.
- 22 (12) "Licensed real estate appraisal trainee" means a person authorized only to assist a certified real
- 23 estate appraiser in the performance of an appraisal assignment.
- 24 (13) "Licensed real estate appraiser" means a person who holds a current valid real estate appraiser
- 25 license issued under 37-54-201.
- 26 (14) "Person" means an individual, firm, partnership, association, corporation, or other business entity.
- 27 (15) "Quality control examination" means an examination of an appraisal report for completeness,
- 28 including grammatical, mathematical, and typographical errors.
- 29 (16) "Real estate appraiser mentor" means a certified real estate appraiser who meets the qualifications
- 30 set by the board and is approved by the board to supervise licensed real estate appraisal trainees."

1

2 **Section 2.** Section 37-54-105, MCA, is amended to read:

3 **"37-54-105. Powers and duties of board.** The board shall:

4 (1) adopt rules to implement and administer the provisions of this chapter;

5 (2) establish and collect fees commensurate with the costs of processing;

6 ~~(a) an application for licensure or renewal of licensure; and~~

7 ~~(b) certification and or renewal of a license or certificate; and~~

8 ~~(c) registration or renewal of registration of appraisal management companies;~~

9 (3) establish minimum requirements for education, experience, and examination for licensure and

10 certification as set out by the appraisal qualification board of the appraisal foundation;

11 (4) prescribe the examinations for licensure or certification and determine the acceptable level of

12 performance on examinations;

13 (5) receive and review applications for licensure, ~~and certification, or appraisal management company~~

14 ~~registration~~ and issue or, as appropriate, renew licenses, and certificates, or appraisal management company

15 registrations;

16 (6) review periodically the standards for development and communication of appraisals and adopt rules

17 explaining and interpreting the standards;

18 (7) retain all applications and other records submitted to ~~it~~ the board;

19 (8) adopt by rule standards of professional appraisal practice in this state;

20 ~~(9) (a) require an appraisal management company to submit reports, information, and documents to the~~

21 ~~board; and~~

22 ~~(b) examine the books and records of an appraisal management company operating in the state;~~

23 ~~(9)(10) reprimand, suspend, revoke, or refuse to renew the license, or certificate, or registration of a~~

24 person or entity who has violated the standards established for licensed and certified real estate appraisers or

25 registered appraisal management companies;

26 ~~(10)(11) regulate and establish minimum requirements and qualifications for real estate appraiser~~

27 mentors; ~~and~~

28 ~~(12) collect annual registry fees from registered appraisal management companies and federally~~

29 ~~regulated appraisal management companies in the amount determined by the appraisal subcommittee of the~~

30 federal financial institutions examination council. Registry fees collected under this subsection (12) are separate

1 from registration fees provided for elsewhere in this section and must be transmitted to the appraisal
 2 subcommittee of the federal financial institutions examination council.

3 ~~(11)~~(13) perform other duties necessary to implement this chapter."
 4

5 **Section 3.** Section 37-54-112, MCA, is amended to read:

6 "**37-54-112. Deposit of fees.** ~~Fees~~ Except as provided in 37-54-105(12), fees collected by the board
 7 under this chapter must be deposited in the state special revenue fund for the use of the board, subject to
 8 37-1-101(6), and may be used to pay the compensation of board members and other expenses necessary to
 9 administer this chapter."
 10

11 **Section 4.** Section 37-54-503, MCA, is amended to read:

12 "**37-54-503. Owner requirements.** (1) An appraisal management company applying for registration in
 13 this state may not be ~~more than 10%~~ owned by:

14 (a) a person who has had a license or certificate to act as an appraiser refused, denied, canceled,
 15 revoked, or surrendered in lieu of a pending revocation in any state unless the license or certificate was
 16 subsequently granted or reinstated; or

17 (b) another entity that is ~~more than 10%~~ owned by a person who has had a license or certificate to act
 18 as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state
 19 unless the license or certificate was subsequently granted or reinstated.

20 (2) Each person who owns ~~more than 10%~~ of an appraisal management company in this state:

21 (a) must be of good moral character, as determined by the board; and

22 (b) shall submit to a background examination as determined by the board.

23 (3) Each appraisal management company applying for registration in this state shall certify to the board
 24 that ~~it~~ the appraisal management company has reviewed each person or entity that directly or indirectly owns
 25 ~~more than 10%~~ of the appraisal management company, in whole or in part, and that no person or entity that
 26 directly or indirectly owns ~~more than 10%~~ of the appraisal management company, in whole or in part, is ~~more than~~
 27 ~~10% directly owned by any person who has had a license, or a certificate, or registration~~ to act as an appraiser
 28 or appraisal management company refused, denied, canceled, revoked, or surrendered in lieu of a pending
 29 revocation in any state."
 30

1 **Section 5.** Section 37-54-511, MCA, is amended to read:

2 **"37-54-511. Certification -- adherence to standards.** Each appraisal management company seeking
3 to be registered in this state shall certify to the board on an annual basis that it has a system in place to perform
4 on an annual basis an appraisal review of the work of all appraisers who are performing appraisals for the
5 appraisal management company ~~on a periodic basis~~ to validate that the appraisals are being conducted in
6 accordance with the uniform standards of professional appraisal practice."
7

8 NEW SECTION. **Section 6. Saving clause.** [This act] does not affect rights and duties that matured,
9 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
10

11 NEW SECTION. **Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable
12 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are severable from the invalid applications.
14

15 NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.
16

- END -