

CHAPTER 2010-84

Council Substitute for Committee Substitute for Committee Substitute for House Bill No. 303

An act relating to regulation of real estate appraisers and appraisal management companies; amending s. 475.611, F.S.; providing definitions; amending s. 475.613, F.S.; revising the membership of the Florida Real Estate Appraisal Board; amending s. 475.614, F.S.; requiring the board to adopt certain rules; amending s. 475.6147, F.S.; requiring application, registration, and renewal fees for appraisal management companies; creating s. 475.6235, F.S.; requiring appraisal management companies to register with the Department of Business and Professional Regulation; specifying application requirements and procedures; requiring the fingerprinting and criminal history records checks of, and providing qualifications for, certain persons who control appraisal management companies; requiring nonresident appraisal management companies to consent to commencement of actions in this state; requiring the department to adopt rules relating to the renewal of registrations; amending s. 475.624, F.S.; conforming provisions to changes made by the act; creating s. 475.6245, F.S.; providing for the discipline of appraisal management companies by the board; amending s. 475.626, F.S.; providing penalties; conforming provisions to changes made by the act; amending s. 475.629, F.S.; revising requirements for the retention of appraisal records; requiring appraisal management companies to follow such requirements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

(1) As used in this part, the term:

(a) “Appraisal” or “appraisal services” means the services provided by certified or licensed appraisers or registered trainee appraisers, and includes:

1. “Appraisal assignment” denotes an engagement for which a person is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, review, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

2. “Analysis assignment” denotes appraisal services that relate to the employer’s or client’s individual needs or investment objectives and includes

specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, or real estate consulting.

3. “Appraisal review assignment” denotes an engagement for which an appraiser is employed or retained to develop and communicate an opinion about the quality of another appraiser’s appraisal, appraisal report, or work. An appraisal review may or may not contain the reviewing appraiser’s opinion of value.

(b) “Appraisal Foundation” or “foundation” means the Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(c) “Appraisal management company” means a person who performs appraisal management services.

(d) “Appraisal management services” means the coordination or management of appraisal services for compensation by:

1. Employing, contracting with, or otherwise retaining one or more appraisers to perform appraisal services for a client; or

2. Acting as a broker or intermediary between a client and one or more appraisers to facilitate the client’s employing, contracting with, or otherwise retaining the appraisers.

(e)(e) “Appraisal report” means any communication, written or oral, of an appraisal, appraisal review, appraisal consulting service, analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property, and includes any report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title. However, in order to be recognized in a federally related transaction, an appraisal report must be written.

(f)(d) “Appraisal review” means the act or process of developing and communicating an opinion about the quality of another appraiser’s appraisal, appraisal report, or work.

(g)(e) “Appraisal subcommittee” means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. ss. 3301 et seq.), as amended.

(h)(f) “Appraiser” means any person who is a registered trainee real estate appraiser, a licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(4)(a).

(i) “Appraiser panel” means a group of appraisers selected by an appraisal management company to perform appraisal services for clients on behalf of the company.

~~(j)~~(g) “Board” means the Florida Real Estate Appraisal Board established under this section.

~~(k)~~(h) “Certified general appraiser” means a person who is certified by the department as qualified to issue appraisal reports for any type of real property.

~~(l)~~(i) “Certified residential appraiser” means a person who is certified by the department as qualified to issue appraisal reports for residential real property of one to four residential units, without regard to transaction value or complexity, or real property as may be authorized by federal regulation.

(m) “Client” means a person who contracts with an appraiser or appraisal management company for the performance of appraisal services.

~~(n)~~(j) “Department” means the Department of Business and Professional Regulation.

~~(o)~~(k) “Direct supervision” means the degree of supervision required of a supervisory appraiser overseeing the work of a registered trainee appraiser by which the supervisory appraiser has control over and detailed professional knowledge of the work being done. Direct supervision is achieved when a registered trainee appraiser has regular direction, guidance, and support from a supervisory appraiser who has the competencies as determined by rule of the board.

~~(p)~~(l) “Federally related transaction” means any real estate-related financial transaction which a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates, and which requires the services of a state-licensed or state-certified appraiser.

~~(q)~~(m) “Licensed appraiser” means a person who is licensed by the department as qualified to issue appraisal reports for residential real property of one to four residential units or on such real estate or real property as may be authorized by federal regulation. After July 1, 2003, the department shall not issue licenses for the category of licensed appraiser.

~~(r)~~(n) “Registered trainee appraiser” means a person who is registered with the department as qualified to perform appraisal services only under the direct supervision of a licensed or certified appraiser. A registered trainee appraiser may accept appraisal assignments only from her or his primary or secondary supervisory appraiser.

(s) “Signature” means personalized evidence indicating authentication of work performed by an appraiser and the acceptance of responsibility for the

content of an appraisal, appraisal review, or appraisal consulting service or conclusions in an appraisal report.

(t)(o) “Supervisory appraiser” means a licensed appraiser, a certified residential appraiser, or a certified general appraiser responsible for the direct supervision of one or more registered trainee appraisers and fully responsible for appraisals and appraisal reports prepared by those registered trainee appraisers. The board, by rule, shall determine the responsibilities of a supervisory appraiser, the geographic proximity required, the minimum qualifications and standards required of a licensed or certified appraiser before she or he may act in the capacity of a supervisory appraiser, and the maximum number of registered trainee appraisers to be supervised by an individual supervisory appraiser.

(u)(p) “Training” means the process of providing for and making available to a registered trainee appraiser, under direct supervision, a planned, prepared, and coordinated program, or routine of instruction and education, in appraisal professional and technical appraisal skills as determined by rule of the board.

(v)(q) “Uniform Standards of Professional Appraisal Practice” means the most recent standards approved and adopted by the Appraisal Standards Board of the Appraisal Foundation.

(w)(r) “Valuation services” means services pertaining to aspects of property value and includes such services performed by certified appraisers, registered trainee appraisers, and others.

(x)(s) “Work file” means the documentation necessary to support an appraiser’s analysis, opinions, and conclusions.

Section 2. Subsection (1) of section 475.613, Florida Statutes, is amended to read:

475.613 Florida Real Estate Appraisal Board.—

(1) There is created the Florida Real Estate Appraisal Board, which shall consist of nine ~~seven~~ members appointed by the Governor, subject to confirmation by the Senate. Four members of the board must be real estate appraisers who have been engaged in the general practice of appraising real property in this state for at least 5 years immediately preceding appointment. In appointing real estate appraisers to the board, while not excluding other appraisers, the Governor shall give preference to real estate appraisers who are not primarily engaged in real estate brokerage or mortgage lending activities. Two members of the board must represent the appraisal management industry. One member of the board must represent organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance. Two members of the board shall be representatives of the general public and shall not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage

lending. The appraiser members shall be as representative of the entire industry as possible, and membership in a nationally recognized or state-recognized appraisal organization shall not be a prerequisite to membership on the board. To the extent possible, no more than two members of the board shall be primarily affiliated with any one particular national or state appraisal association. Two of the members must be licensed or certified residential real estate appraisers and two of the members must be certified general real estate appraisers at the time of their appointment.

(a) Members of the board shall be appointed for 4-year terms. Any vacancy occurring in the membership of the board shall be filled by appointment by the Governor for the unexpired term. Upon expiration of her or his term, a member of the board shall continue to hold office until the appointment and qualification of the member’s successor. A member may not be appointed for more than two consecutive terms. The Governor may remove any member for cause.

(b) The headquarters for the board shall be in Orlando.

(c) The board shall meet at least once each calendar quarter to conduct its business.

(d) The members of the board shall elect a chairperson at the first meeting each year.

(e) Each member of the board is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the board.

Section 3. Section 475.614, Florida Statutes, is amended to read:

475.614 Power of board to adopt rules and decide questions of practice; requirements for protection of appraiser’s signature.—

(1) The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it. The board may decide questions of practice arising in the proceedings before it, having regard to this section and the rules then in force.

(2) The board shall adopt rules specifying the means by which an appraiser’s signature may be affixed to an appraisal report or other work performed by the appraiser. The rules shall include requirements for protecting the security of an appraiser’s signature and prohibiting practices that may discredit the use of an appraiser’s signature to authenticate the work performed by the appraiser.

Section 4. Subsection (1) of section 475.6147, Florida Statutes, is amended to read:

475.6147 Fees.—

(1)(a) The board by rule may establish fees to be paid for application, licensing and renewal, certification and recertification, registration and re-registration, reinstatement, and recordmaking and recordkeeping.

(b) The fee for initial application of an appraiser may not exceed \$150, and the combined cost of the application and examination may not exceed \$300. The initial certification, registration, or license fee and the certification, registration, or license renewal fee may not exceed \$150 for each year of the duration of the certification, registration, or license.

(c) The fee for initial application of an appraisal management company may not exceed \$150. The initial registration and registration renewal fee may not exceed \$150 for each year of the duration of the registration.

(d) The board may also establish by rule a late renewal penalty.

(e) The board shall establish fees which are adequate to ensure its continued operation. Fees shall be based on estimates made by the department of the revenue required to implement this part and other provisions of law relating to the regulation of real estate appraisers.

Section 5. Section 475.6235, Florida Statutes, is created to read:

475.6235 Registration of appraisal management companies required.—

(1) A person may not engage in appraisal management services for compensation in this state, advertise or represent herself or himself as an appraisal management company, or use the titles “appraisal management company,” “appraiser cooperative,” “appraiser portal,” or “mortgage technology company,” or any abbreviation or words to that effect, unless the person is registered with the department as an appraisal management company under this section. However, an employee of an appraisal management company is not required to obtain a separate registration.

(2) An application for registration must be submitted to the department in the format prescribed by the department and must include, at a minimum, the following:

(a) The firm or business name under which the appraisal management company conducts business in this state. The appraisal management company must notify the department of any change in the firm or business name, on a form provided by the department, within 10 days after such change.

(b) The mailing address, street address, and telephone number of the appraisal management company’s principal business location. The appraisal management company must notify the department of any change in the mailing or street address, on a form provided by the department, within 10 days after such change.

(c) The appraisal management company's federal employer identification number.

(d) The appraisal management company's type of business organization, such as a corporation, partnership, limited liability company, or sole proprietorship.

(e) A statement as to whether the appraisal management company, if incorporated, is a domestic or foreign corporation, the company's date of incorporation, the state in which the company was incorporated, its charter number, and, if it is a foreign corporation, the date that the company first registered with the Department of State to conduct business in this state.

(f) The full name, street address, telephone number, corporate title, and social security number or federal employer identification number of any person who possesses the authority, directly or indirectly, to direct the management or policies of the appraisal management company, whether through ownership, by contract, or otherwise, including, but not limited to:

1. Each officer and director if the appraisal management company is a corporation.

2. Each general partner if the appraisal management company is a partnership.

3. Each manager or managing member if the appraisal management company is a limited liability company.

4. The owner if the appraisal management company is a sole proprietorship.

5. Each other person who, directly or indirectly, owns or controls 10 percent or more of an ownership interest in the appraisal management company.

(g) The firm or business name under which any person listed in paragraph (f) conducted business as an appraisal management company within the 5 years preceding the date of the application.

(h) The appraisal management company's registered agent for service of process in this state.

(3) Appropriate fees, as set forth in the rules of the board pursuant to s. 475.6147, and a complete set of fingerprints for each person listed in paragraph (2)(f) must accompany all applications for registration. The fingerprints shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprints to determine whether the person has a criminal history record. The fingerprints shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprints to determine whether the person has a criminal history record. The information

obtained by the processing of fingerprints by the Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining whether the appraisal management company is statutorily qualified for registration.

(4) At the time of filing an application for registration of an appraisal management company, each person listed in paragraph (2)(f) must sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice upon registration and must indicate in writing that she or he understands the types of misconduct for which disciplinary proceedings may be initiated. The application shall expire 1 year after the date received.

(5) Each person listed in paragraph (2)(f) must be competent and qualified to engage in appraisal management services with safety to the general public and those with whom the person may undertake a relationship of trust and confidence. If any person listed in paragraph (2)(f) has been denied registration, licensure, or certification as an appraiser or has been disbarred, or if the person's registration, license, or certificate to practice or conduct any regulated profession, business, or vocation has been revoked or suspended by this or any other state, any nation, any possession or district of the United States, or any court or lawful agency thereof because of any conduct or practices that would have warranted a like result under this part, or if the person has been guilty of conduct or practices in this state or elsewhere that would have been grounds for disciplining her or his registration, license, or certification under this part had the person then been a registered trainee appraiser or a licensed or certified appraiser, the person shall be deemed not to be qualified unless, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, it appears to the board that the interest of the public is not likely to be endangered by the granting of registration.

(6) An applicant seeking to become registered under this part as an appraisal management company may not be rejected solely by virtue of membership or lack of membership of any person listed in paragraph (2)(f) or any employee of the company in any particular appraisal organization.

(7) An applicant for registration who is not a resident of the state shall file an irrevocable consent that suits and actions may be commenced against the appraisal management company in any county of the state in which a plaintiff having a cause of action or suit against the company resides and that service of any process or pleading in suits or actions against the company may be made by delivering the process or pleading to the director of the Division of Real Estate by certified mail, return receipt requested, and also to the appraisal management company by registered mail addressed to the company's designated principal business location or, if its principal business location is located in this state, to the company's registered agent. Service, when so made, must be taken and held in all courts to be as valid and binding upon the appraisal management company as if made upon the company in this state within the jurisdiction of the court in which the suit or action is

filed. The irrevocable consent must be in a form prescribed by the department and be acknowledged before a notary public.

(8) The department shall renew the registration of an appraisal management company upon receipt of the renewal application and the proper fee. The department shall adopt rules establishing a procedure for renewal of the registration of an appraisal management company at least every 4 years.

Section 6. Section 475.624, Florida Statutes, is amended to read:

475.624 Discipline of appraisers.—The board may deny an application for registration or certification of an appraiser; may investigate the actions of any appraiser registered, licensed, or certified under this part; may reprimand or impose an administrative fine not to exceed \$5,000 for each count or separate offense against any such appraiser; and may revoke or suspend, for a period not to exceed 10 years, the registration, license, or certification of any such appraiser, or place any such appraiser on probation, if the board ~~it~~ finds that the registered trainee, licensee, or certificateholder:

(1) Has violated any provision ~~provisions~~ of this part or s. 455.227(1); however, any appraiser registered, licensed, or certified certificateholders, registrants, and licensees under this part ~~is~~ are exempt from the provisions of s. 455.227(1)(i).

(2) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon her or him by law or by the terms of a contract, whether written, oral, express, or implied, in an appraisal assignment; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the registered trainee appraiser or licensed, licensee, or certified appraiser certificateholder that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the registered trainee appraiser or licensed, licensee, or certified appraiser certificateholder, or was an identified member of the general public.

(3) Has advertised services in a manner that ~~which~~ is fraudulent, false, deceptive, or misleading in form or content.

(4) Has violated any provision ~~of the provisions~~ of this part or any lawful order or rule issued under ~~the provisions~~ of this part or chapter 455.

(5) Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that ~~which~~ directly relates to the activities of a registered trainee appraiser or

licensed or certified appraiser; or that ~~which~~ involves moral turpitude or fraudulent or dishonest conduct. The record of a conviction certified or authenticated in such form as admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(6) Has had a registration, license, or certification as an appraiser revoked, suspended, or otherwise acted against; ~~or~~ has been disbarred; ~~or~~ has had her or his registration, license, or certificate to practice or conduct any regulated profession, business, or vocation revoked or suspended by this or any other state, any nation, or any possession or district of the United States; or has had an application for such registration, licensure, or certification to practice or conduct any regulated profession, business, or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(7) Has become temporarily incapacitated from acting as an appraiser with safety to those in a fiduciary relationship with her or him because of drunkenness, use of drugs, or temporary mental derangement; however, suspension of a license, certification, or registration in such cases shall only be for the period of such incapacity.

(8) Is confined in any county jail, postadjudication; is confined in any state or federal prison or mental institution; or, through mental disease or deterioration, can no longer safely be entrusted to deal with the public or in a confidential capacity.

(9) Has failed to inform the board in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony.

(10) Has been found guilty, for a second time, of any misconduct that warrants disciplinary action, or has been found guilty of a course of conduct or practice that ~~which~~ shows that she or he is incompetent, negligent, dishonest, or untruthful to an extent that those with whom she or he may sustain a confidential relationship may not safely do so.

(11) Has made or filed a report or record, either written or oral, that ~~which~~ the registered trainee appraiser or licensed, ~~licensee, or certified appraiser~~ certificateholder knows to be false; has willfully failed to file a report or record required by state or federal law; has willfully impeded or obstructed such filing; or has induced another person to impede or obstruct such filing. However, such reports or records shall include only those that ~~which~~ are signed or presented in the capacity of a registered trainee appraiser or licensed or certified appraiser.

(12) Has obtained or attempted to obtain a registration, license, or certification by means of knowingly making a false statement, submitting false information, refusing to provide complete information in response to an application question, or engaging in fraud, misrepresentation, or concealment.

(13) Has paid money or other valuable consideration, except as required by this section, to any member or employee of the board to obtain a registration, license, or certification under this section.

(14) Has violated any standard for the development or communication of a real estate appraisal or other provision of the Uniform Standards of Professional Appraisal Practice.

(15) Has failed or refused to exercise reasonable diligence in developing an appraisal or preparing an appraisal report.

(16) Has failed to communicate an appraisal without good cause.

(17) Has accepted an appraisal assignment if the employment itself is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or if the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached upon the consequences resulting from the appraisal assignment.

(18) Has failed to timely notify the department of any change in business location, or has failed to fully disclose all business locations from which she or he operates as a registered trainee real-estate appraiser or licensed or certified real-estate appraiser.

Section 7. Section 475.6245, Florida Statutes, is created to read:

475.6245 Discipline of appraisal management companies.—

(1) The board may deny an application for registration of an appraisal management company; may investigate the actions of any appraisal management company registered under this part; may reprimand or impose an administrative fine not to exceed \$5,000 for each count or separate offense against any such appraisal management company; and may revoke or suspend, for a period not to exceed 10 years, the registration of any such appraisal management company, or place any such appraisal management company on probation, if the board finds that the appraisal management company or any person listed in s. 475.6235(2)(f):

(a) Has violated any provision of this part or s. 455.227(1); however, any appraisal management company registered under this part is exempt from s. 455.227(1)(i).

(b) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon her or him by law or by the terms of a contract, whether written, oral, express, or implied, in an appraisal assignment; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt

of the appraisal management company that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the appraisal management company or was an identified member of the general public.

(c) Has advertised services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(d) Has violated any provision of this part or any lawful order or rule issued under this part or chapter 455.

(e) Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the activities of an appraisal management company or that involves moral turpitude or fraudulent or dishonest conduct. The record of a conviction certified or authenticated in such form as admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(f) Has had a registration, license, or certification as an appraiser or a registration as an appraisal management company revoked, suspended, or otherwise acted against; has been disbarred; has had her or his registration, license, or certificate to practice or conduct any regulated profession, business, or vocation revoked or suspended by this or any other state, any nation, or any possession or district of the United States; or has had an application for such registration, licensure, or certification to practice or conduct any regulated profession, business, or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(g) Has become temporarily incapacitated from acting as an appraisal management company with safety to those in a fiduciary relationship with her or him because of drunkenness, use of drugs, or temporary mental derangement; however, suspension of a registration in such cases shall only be for the period of such incapacity.

(h) Is confined in any county jail, postadjudication; is confined in any state or federal prison or mental institution; or, through mental disease or deterioration, can no longer safely be entrusted to deal with the public or in a confidential capacity.

(i) Has failed to inform the board in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony.

(j) Has been found guilty, for a second time, of any misconduct that warrants disciplinary action, or has been found guilty of a course of conduct or practice that shows that she or he is incompetent, negligent, dishonest, or untruthful to an extent that those with whom she or he may sustain a confidential relationship may not safely do so.

(k) Has made or filed a report or record, either written or oral, that the appraisal management company knows to be false; has willfully failed to file a report or record required by state or federal law; has willfully impeded or obstructed such filing; or has induced another person to impede or obstruct such filing. However, such reports or records shall include only those that are signed or presented in the capacity of an appraisal management company.

(l) Has obtained or attempted to obtain a registration, license, or certification by means of knowingly making a false statement, submitting false information, refusing to provide complete information in response to an application question, or engaging in fraud, misrepresentation, or concealment.

(m) Has paid money or other valuable consideration, except as required by this section, to any member or employee of the board to obtain a registration, license, or certification under this section.

(n) Has instructed an appraiser to violate any standard for the development or communication of a real estate appraisal or other provision of the Uniform Standards of Professional Appraisal Practice.

(o) Has engaged in the development of an appraisal or the preparation of an appraisal report, unless the appraisal management company is owned or controlled by certified appraisers.

(p) Has failed to communicate an appraisal without good cause.

(q) Has accepted an appraisal assignment if the employment itself is contingent upon the appraisal management company reporting a predetermined result, analysis, or opinion or if the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached upon the consequences resulting from the appraisal assignment.

(r) Has failed to timely notify the department of any change in principal business location as an appraisal management company.

(s) Has influenced or attempted to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or any other means, including, but not limited to:

1. Withholding or threatening to withhold timely payment for an appraisal, unless such nonpayment is based upon specific quality or other service issues that constitute noncompliance with the appraisal engagement agreement.

2. Withholding or threatening to withhold future business from an appraiser.

3. Promising future business, promotions, or increased compensation for an appraiser, whether the promise is express or implied.

4. Conditioning a request for appraisal services or the payment of an appraisal fee, salary, or bonus upon the opinion, conclusion, or valuation to be reached or upon a preliminary estimate or opinion requested from an appraiser.

5. Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report or provide estimated values or comparable sales at any time before the appraiser's completion of appraisal services.

6. Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided.

7. Providing to an appraiser, or any person related to the appraiser, stock or other financial or nonfinancial benefits.

8. Allowing the removal of an appraiser from an appraiser panel without prior written notice to the appraiser.

9. Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is issued pursuant to a bona fide prefunding or postfunding appraisal review or quality control process.

10. Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

(t) Has altered, modified, or otherwise changed a completed appraisal report submitted by an appraiser to an appraisal management company.

(u) Has employed, contracted with, or otherwise retained an appraiser whose registration, license, or certification is suspended or revoked to perform appraisal services or appraisal management services.

(2) The board may reprimand an appraisal management company, conditionally or unconditionally suspend or revoke any registration of an appraisal management company issued under this part, or impose administrative fines not to exceed \$5,000 for each count or separate offense against any such appraisal management company if the board determines that the appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following acts:

(a) Committing any act in violation of this part.

(b) Violating any rule adopted by the board under this part.

(c) Obtaining a registration of an appraisal management company by fraud, misrepresentation, or deceit.

(3) This section does not prohibit an appraisal management company from requesting an appraiser to:

(a) Provide additional information about the basis of a valuation, including consideration of additional comparable data; or

(b) Correct objective factual errors in an appraisal report.

Section 8. Section 475.626, Florida Statutes, is amended to read:

475.626 Violations and penalties.—

(1) A person may not: VIOLATIONS.—

(a) No person shall Operate or attempt to operate as a registered trainee appraiser, a or licensed or certified appraiser, or an appraisal management company without being the holder of a valid and current registration, license, or certification.

(b) No person shall Violate any lawful order or rule of the board which is binding upon her or him.

(c) If a registered trainee appraiser or a licensed or certified appraiser, No person shall commit any conduct or practice set forth in s. 475.624.

(d) If an appraisal management company, commit any conduct or practice set forth in s. 475.6245.

(e)(d) No person shall Make any false affidavit or affirmation intended for use as evidence by or before the board or any member thereof, or by any of its authorized representatives, nor may shall any person give false testimony under oath or affirmation to or before the board or any member thereof in any proceeding authorized by this section.

(f)(e) No person shall Fail or refuse to appear at the time and place designated in a subpoena issued with respect to a violation of this section, unless such failure to appear is the result of facts or circumstances that are sufficient to excuse appearance in response to a subpoena from the circuit court; nor may shall a person who is present before the board or a member thereof or one of its authorized representatives acting under authority of this section refuse to be sworn or to affirm or fail or refuse to answer fully any question propounded by the board, the member, or such representative, or by any person by the authority of such officer or appointee.

(g)(f) No person shall Obstruct or hinder in any manner the enforcement of this section or the performance of any lawful duty by any person acting under the authority of this section, or interfere with, intimidate, or offer any

bribe to any member of the board or any of its employees or any person who is, or is expected to be, a witness in any investigation or proceeding relating to a violation of this section.

~~(h)(g) No person shall~~ Knowingly conceal any information relating to violations of this section.

(2) A PENALTIES.—Any person who violates any provision of the ~~provisions of subsection (1) commits is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, except when a different punishment is prescribed by this section. ~~Nothing in~~ This section ~~does not shall~~ prohibit the prosecution under any other criminal statute of this state of any person for an act or conduct prohibited by this section; however, in such cases, the state may prosecute under this section or under such other statute, or may charge both offenses in one prosecution, but the sentence imposed shall not be a greater fine or longer sentence than that prescribed for the offense which carries the more severe penalties. A civil case, a criminal case, or a denial, revocation, or suspension proceeding may arise out of the same alleged state of facts, and the pendency or result of one such case or proceeding shall not stay or control the result of either of the others.

Section 9. Section 475.629, Florida Statutes, is amended to read:

475.629 Retention of records.—An appraiser registered, licensed, or certified under this part or an appraisal management company registered under this part shall retain, for at least 5 years or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater, original or true copies of any contracts engaging the appraiser's or appraisal management company's services, appraisal reports, and supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services. Except as otherwise specified in the Uniform Standards of Professional Appraisal Practice, the period for retention of the records applicable to each engagement of the services of the appraiser or appraisal management company runs from the date of the submission of the appraisal report to the client. These records must be made available by the appraiser or appraisal management company for inspection and copying by the department upon or reasonable notice to the appraiser or company. However, the department may not inspect or copy the records of an appraisal management company except in connection with a pending investigation or complaint. If an appraisal has been the subject of or has served as evidence for litigation, reports and records must be retained for at least 2 years after the trial or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater.

Section 10. This act shall take effect July 1, 2011.

Approved by the Governor May 14, 2010.

Filed in Office Secretary of State May 14, 2010.