

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 716

INTRODUCER: Appropriations Committee; Regulated Industries Committee; and Senator Passidomo

SUBJECT: Real Estate Appraisers

DATE: April 17, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi/Kraemer</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Betta</u>	<u>AGG</u>	<u>Recommend: Favorable</u>
3.	<u>Davis</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 716 revises Florida law to implement registration and supervision systems for appraisal management companies to meet minimum requirements for such companies established by federal rule. An appraisal management company is an entity that serves as an intermediary and provides certain prescribed services to creditors.¹ Implementation of a registration system for appraisal management companies satisfying federal requirements will allow eligible persons and appraisal management companies licensed in Florida to continue to perform appraisal services for federally related transactions.

¹ See the Supplementary Information section in the published Federal Register Notice at <https://www.asc.gov/documents/othercorrespondence/final%20rule%20for%20minimum%20requirements%20for%20amcs.pdf> (last visited Mar. 10, 2017) at page 32658, 12 U.S.C. 3350(1) and 12 C.F.R. 225.191(d).

Under 12 C.F.R. §34.211, an “appraisal management company” is a person, other than a department or division that does not provide appraisal management services to only one entity, that (i) provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates; (ii) provides such services in connection with valuing consumer’s principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; (iii) within a given 12-month period, oversees an appraiser panel of 15 or more state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed appraisers in two or more states.

“Appraisal management services” include one or more of the following: (1) recruiting, selecting, and retaining appraisers; (2) contracting with state-certified or state-licensed appraisers; (3) managing the process of having an appraisal performed, including performing administrative services; and (4) reviewing and verifying the work of appraisers.

The bill:

- Defines or revises definitions of the terms “appraisal management company” “appraisal panel,” “covered transaction,” “evaluation,” “secondary mortgage market participant,” and “order file” to conform to the final federal rule that establishes standards for appraisal management companies;
- Requires, as part of the implementation of a federally-compliant registration system for appraisal management companies, the Department of Business and Professional Regulation (DBPR) to collect data and required fees, and to transmit a roster, no less than annually, listing the persons or companies that hold a valid state registration as an appraisal management company to a federal appraisal subcommittee, consisting of federal financial institution regulatory agencies.
- Removes the authority currently granted to the Florida Real Estate Appraisal Board (board) to qualify a person who is otherwise disqualified for licensure, if it appears to the board, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, that the interest of the public is not likely to be endangered by the granting of registration.
- Allows the board to deny the renewal of the registration of an appraisal management company based on disciplinary action against the licensee, rather than limiting denial to the initial application for licensure.
- Authorizes the board to deny an application for registration or renewal of a registration or to reprimand or fine an appraisal management company that has required or attempted to require clients to sign any agreement that would require a client to hold harmless the appraisal management company or its owners, agents, or employees, from any liability, damage, loss, or claim arising from the services performed by an appraiser.
- Permits an appraiser to perform an evaluation of real property in connection with a federally regulated real estate financial transaction, and requires that the appraiser comply with the standards for evaluation imposed by the federal financial institutions regulatory agency and other standards as prescribed by the board.
- Grants authority to the board to adopt rules to establish standards of practice for nonfederal transactions; and
- Requires that the board mandate compliance with the Ethics and Competency Rules of the standards adopted by the Appraisal Standards Board of the Appraisal Foundation for all appraisals other than those in a federal transaction.

Additionally, the bill allows distance learning courses for real estate practice coursework required for initial licensure as a real estate broker or sales associate, repeals duplicative post licensure education requirements for trainee appraisers, and removes obsolete language.

The bill has no significant fiscal impact to state government; however, the DBPR indicates it will require additional non-operating budget authority to transfer certain fees to the federal Appraisal Subcommittee.

The bill takes effect October 1, 2017.

II. Present Situation:

The Florida Real Estate Commission (commission) within the Division of Real Estate in the Department of Business and Professional Regulation (DBPR) administers and enforces the laws governing real estate brokers and may adopt rules to implement the provisions of part I of ch. 475, F.S. The Florida Real Estate Appraisal Board (board) administers and enforces the laws governing real estate appraisers and may adopt rules to implement the provisions of part II of ch. 475, F.S.

The Appraisal Foundation is a private, non-profit educational organization formed to promote professionalism in the valuation industry.² The Appraisal Standards Board within the Appraisal Foundation establishes the standards of the profession, known as the Uniform Standards of Professional Appraisal Practice (USPAP).³ The USPAP, and the rules created by the commission and the board, govern real estate brokers, appraisers, and appraisal management companies in Florida.

Real Estate Brokerage Registration Requirements

Section 475.15, F.S., requires a partnership, limited liability partnership, limited liability company, or corporation that acts as a real estate broker to register with the commission and renew the licenses or registrations of its members, officers, and directors for each license period. For a limited partnership, only the general partners must be licensed brokers or registered brokerage corporations. The registration of a corporation, limited liability company, limited liability partnership, or partnership is canceled automatically during the period of time the entity does not have at least one real estate broker member who has an active license or registration.

Real Estate Broker Education Requirement Exemption

Section 475.17, F.S., sets forth the qualifications for practice for a real estate broker. In part, an applicant must complete a pre-licensing course.⁴ The commission may require licensees to meet post licensure education requirements in order to maintain valid sales associate's or broker's licenses.⁵ The required education courses must be provided by an accredited college, university, or community college, by a career center, by a registered real estate school, or by a commission-approved sponsor.⁶ The schools or sponsors may provide the instruction through classroom courses, distance learning courses, or both. For a person who cannot attend the courses as offered, courses must be made available by correspondence or other suitable means.⁷

²See https://www.appraisalfoundation.org/imis/TAF/About_Us/TAF/About_Us.aspx?hkey=52dedd0a-de2f-4e2d-9efb-51ec94884a91 (last visited Mar. 9, 2017).

³ The *Uniform Standards of Professional Appraisal Practice* (USPAP), was adopted by Congress in 1989, and is the generally recognized ethical and performance standards for the appraisal profession in the United States. Compliance with the USPAP is required for state-licensed and state-certified appraisers involved in federally-related real estate transactions. See https://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx (last visited Mar. 9, 2017).

⁴ Section 475.17(2)(a), F.S.

⁵ Sections 475.17(3)(a), and (4)(a), F.S.

⁶ *Id.*

⁷ Sections 475.17(2), and (5), F.S.

A person who has received a four-year, or higher, degree in real estate from an accredited institution of higher education is exempt from pre-licensure education course requirements as well as post licensure education requirements.⁸

Real Estate Brokers – Inactive License

Section 475.183, F.S., deals with the activation of licenses that are voluntarily or involuntarily inactive. Licenses that have been involuntarily inactive for more than two years automatically expire, and become null and void without any further action by the commission or the DBPR. The DBPR must provide notice to the licensee 90 days prior to expiration of a license. The commission adopted a \$45 late fee for the late renewal of an involuntarily inactive license.⁹

The Appraisal Subcommittee Fee

The Appraisal Subcommittee (ASC) was created in 1989,¹⁰ pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The ASC is an independent agency, within the Federal Financial Institutions Examination Council, that oversees the states' appraisal regulatory programs including Florida's appraiser regulatory program.¹¹

The ASC maintains a database of state certified and licensed real estate appraisers called the National Registry.¹² State appraiser regulatory agencies submit appraiser information to the registry. An appraiser must be listed on the National Registry to be eligible to perform appraisals in connection with federally related transactions, including mortgage transactions. The ASC requires an annual \$40 fee from certified or licensed appraisers to support the ASC National Registry.¹³ The state agency that oversees appraisers is required to collect the fee from appraisers and transmit it to the ASC annually. Real estate appraisers in Florida are regulated by the Florida Real Estate Appraisal Board within the Division of Real Estate in the DBPR.¹⁴

Real Estate Appraisers

A “certified general appraiser” is a person who is certified by the DBPR as qualified to issue appraisal reports for any type of real property.¹⁵

⁸ Section 475.17(6), F.S.

⁹ Section 475.183(2)(b), F.S., and *See* Fla. Admin. Code R. 61J2-1.011(5)(c) (2017), at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61J2-1> (last visited Mar. 9, 2017)).

¹⁰ Appraisal Subcommittee, Federal Financial Institutions Examination Council, *ASC History*, at <https://www.asc.gov/About-the-ASC/ASCHistory.aspx> (last visited Mar. 9, 2017). *See also* s. 475.611(1)(b), F.S.

¹¹ <https://www.asc.gov/Legal-Framework/DoddFrank.aspx>

¹² *See* <https://www.asc.gov/National-Registry/NationalRegistry.aspx> (last visited Mar. 9, 2017).

¹³ 12 U.S.C. s. 3332(a) and 3338(a)(4). The notice published in the Federal Register on June 9, 2015 and the final rule to implement minimum requirements the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for appraisal management companies may be reviewed at <https://www.asc.gov/documents/othercorrespondence/final%20rule%20for%20minimum%20requirements%20for%20amcs.pdf> (last visited Mar. 9, 2017).

¹⁴ Section 475.613(2), F.S.

¹⁵ Section 475.611(1)(k), F.S.

A “certified residential appraiser” is a person who is certified by the DBPR 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.¹⁶

A “licensed appraiser” is a person who is licensed by the DBPR 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.¹⁷

The ASC and the Appraisal Foundation have adopted standard designation for appraisers, including “state certified general appraiser” and “state certified appraiser.” As of July 1, 2003, the DBPR may not issue licenses for the category of licensed appraiser.¹⁸ In 2013, the Legislature removed the term “licensed appraiser” from the definition of “supervisory appraiser,” and the reference to “licensed” appraisers from the supervisory requirements for trainee real estate appraisers. These changes conformed Florida law to federally recognized standards that allow only a “certified” appraiser to act as a supervisor for a trainee appraiser.¹⁹ Under current law, only a certified appraiser may supervise a “registered trainee appraiser.”²⁰

Real Estate Appraisers – Retention of Records

Florida law and the USPAP have different record retention requirements. All registered, licensed, or certified appraisers and registered appraisal management companies must retain the following documents for five years:²¹

- Original or true copies of any contracts to engage the services of the appraiser or appraisal management company;
- Appraisal reports; and
- Supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services.

These records must be available for inspection or copying by the DBPR. However, the DBPR may only inspect or copy the records of an appraisal management company in connection with a pending investigation or complaint. The DBPR is able to inspect any appraiser or appraisal office for the purposes of determining if any of the provisions of chs. 475 or 455, F.S., or any rule is being violated.²² However, the DBPR does not have the authority to inspect the offices of appraisal management companies.²³

The USPAP requires an appraiser to create a work file that must include:

¹⁶ Section 475.611(1)(l), F.S.

¹⁷ Section 475.611(1)(q), F.S.

¹⁸ *Id.*

¹⁹ Chapter 2013-144, Laws of Fla. See the Real Property Appraiser Qualification Criteria at https://www.appraisalfoundation.org/imis/TAF/Standards/Qualification_Criteria/Qualification_Criteria_RP_/TAF/AQB_RP_AOC.aspx?hkey=5ec61b8d-751b-4a97-90b1-9b3dae5 (last visited Mar. 9, 2017).

²⁰ Section 475.611(1)(r), F.S.

²¹ Section 475.629, F.S., requires documents to be retained for five years or the period required by the USPAP, whichever is longer. The USPAP also requires a 5-year retention period; however, USPAP is not a publicly available document, but a copy may be purchased.

²² Section 475.6295, F.S.

²³ *Id.*

- The name of the client and the identity, by name or type, of any other intended users;
- True copies²⁴ of any written reports, documented on any type of media;
- Summaries of all oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification;
- All other data, information, and documentation necessary to support the appraiser's opinions and calculations and to show compliance with USPAP, or reference to the location(s) of such other documentation; and
- A work file in support of a Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.

Registered Trainee Appraiser

A "registered trainee appraiser" is a person who is registered with the DBPR as qualified to perform appraisal services only under the direct supervision of a certified appraiser.²⁵ A registered trainee appraiser may accept appraisal assignments only from his or her primary or secondary supervisory appraiser. Registrations are renewed biennially.²⁶

Section 475.6175, F.S., authorizes the board to prescribe post licensure education requirements for a registered trainee appraiser. The continuing education must consist of one or more courses that total no more than the total educational hours required to qualify as a state certified residential appraiser. Florida Administrative Code Rule 61J1-4.009 requires a registered trainee appraiser to complete 30 hours of post licensure education.

Real Estate Appraisers – Nonresident Licenses and Certifications

Florida requires out-of-state licensees to meet all of the requirements for appraiser licensure. However, s. 475.631, F.S., allows the board to enter into agreements with other states that have similar licensure requirements. These agreements allow Florida certified appraisers to become licensed in another state without having to meet all of that state's requirements and vice versa.²⁷

Dodd-Frank Wall Street Reform and Consumer Protection Act

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to "promote the financial stability of the United States by improving accountability and transparency in the financial system, to end 'too big to fail,' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes."²⁸

²⁴ A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire report transmitted to the client satisfies that requirement of a true copy.

²⁵ Section 475.611(1)(r), F.S.

²⁶ See Fla. Admin. Code R. 61J1-2.002 (1995)

²⁷ See Fla. Admin. Code R. 61J1-3.004 (2017), at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61J1-3> (last visited Mar. 9, 2017)). If the board determines that other states do not offer comparable nonresident licensure or certification to Florida certified appraisers that Florida offers to those states, the board must require certified appraisers or licensees of that jurisdiction to meet the education, experience, and examination requirements of other nonresident licensure or certification. See s. 475.631(1), F.S.

²⁸ See <https://www.asc.gov/Legal-Framework/DoddFrank.aspx> (last visited Mar. 9, 2017)

The Dodd-Frank Act became effective on July 1, 2013,²⁹ amended the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and requires states to have policies in place for issuing a reciprocal certification or license to an appraiser from another state when:

- The appraiser licensing and certification program of the other state complies with FIRREA;³⁰ and
- The appraiser holds a valid certification from a state with requirements for certification or licensing that meet or exceed the certification and licensure standards established by the state where the individual seeks appraisal licensure (i.e., reciprocity).³¹

The minimum requirements for the registration and supervision of appraisal management companies are also mandated by the Dodd-Frank Act.³² The affected federal agencies³³ adopted a final rule on June 9, 2015. Under Dodd-Frank, states must require that appraisal management companies:

- Register with and be subject to supervision by the state agency that certifies and licenses appraisers in the state in which the appraiser operates.
- Verify that only state-certified or state-licensed appraisers are used for federally related transactions.
- Require that appraisals comply with the USPAP.
- Require that appraisals are conducted in accordance with statutory valuation independence standards pursuant to the Truth in Lending Act and its regulations.

An appraisal management company that is a subsidiary owned and controlled by an insured depository institution and regulated by a federal financial institutions regulatory agency is subject to all of those minimum requirements, except the requirement to register with the state.³⁴

Section 1124 of the Dodd-Frank Act does *not* compel a state to establish an appraisal management company registration and supervision program and no penalty is imposed on a state that does not establish an appraisal management company regulatory structure. However, if a state does not establish a regulatory structure for appraisal management companies by August 10, 2018 (i.e., 36 months after the effective date of the final rule), s. 1124 of the Dodd-Frank Act bars appraisal management companies from providing appraisal management services for federally related transactions, unless the appraisal management company is owned and controlled by a federally regulated financial institution.³⁵ However, appraisal management

²⁹ Appraisal Subcommittee, Federal Financial Institutions Examination Council, *The Dodd-Frank Wall Street Reform and Consumer Protection Act*, at <https://www.asc.gov/Legal-Framework/DoddFrank.aspx> (last visited Mar. 9, 2017).

³⁰ Written agreements between states are not required by FIRREA.

³¹ 12 U.S.C. s. 3351(b); and Appraisal Subcommittee Policy Statement 5 (June 1, 2013) at <https://www.asc.gov/Documents/PolicyStatements/ASC%20Policy%20Statements%2006.01.13.pdf> (last visited March 9, 2017).

³² *See* <https://www.asc.gov/documents/othercorrespondence/final%20rule%20for%20minimum%20requirements%20for%20amcs.pdf> (last visited Mar. 10, 2017).

³³ The final rule adopted on June 9, 2015 may be reviewed at <https://www.asc.gov/documents/othercorrespondence/final%20rule%20for%20minimum%20requirements%20for%20amcs.pdf> (last visited Mar. 9, 2017).

³⁴ *Id.*

³⁵ *Id.*

companies that are below the minimum statutory panel size threshold will continue to be eligible to provide appraisal management services for federally related transactions.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 475.451(6), F.S., to allow schools teaching real estate practice to provide instruction in a classroom or by distance learning courses approved pursuant to s. 475.17(2), F.S., and to remove obsolete language authorizing videotaped instruction. The bill also requires real estate practice coursework for initial licensure as a broker; such coursework is currently required for licensure as a sales associate.

Section 2 amends s. 475.611, F.S., to conform the terms “appraisal panel,”³⁷ “covered transaction,” “evaluation,” “secondary mortgage market participant,” and “order file” to the final federal rule that establishes standards for appraisal management companies.³⁸

The section revises the definition of “appraisal management company” to further define the term to mean a person who, within a 12-month period, oversees an appraisal panel of more than 15 state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed appraisers in two or more states.³⁹

An “evaluation” means a valuation permitted by a regulatory agency for federal financial institutions, when no appraisal is required because a federal exemption applies. The bill provides that an “evaluation” may not be referred to or construed as an “appraisal.”

Section 3 creates s. 475.612(7), F.S., to permit an appraiser to perform an evaluation of real property in connection with a federally regulated real estate financial transaction. The bill also requires an appraiser providing services in a federally related transaction to comply with the standards for evaluation imposed by the federal financial institutions regulatory agency and other standards as prescribed by the Florida Real Estate Appraisal Board (board). An evaluation may not be referred to as an appraisal.

Section 4 repeals s. 475.6175, F.S., concerning post licensure education requirements for trainee appraisers. Currently, s. 475.618, F.S., requires the Department of Business and Professional Regulation (DBPR) to renew a registration, license, or certification of an appraiser upon receipt

³⁶ See the Supplementary Information section in the published Federal Register Notice at <https://www.asc.gov/documents/othercorrespondence/final%20rule%20for%20minimum%20requirements%20for%20amcs.pdf> (last visited Mar. 10, 2017) at page 32658, 12 U.S.C. 3350(1) and 12 C.F.R. 225.191(d).

The minimum statutory panel threshold is an appraisal management company that oversees fewer than 15 state-licensed appraisers in a state or fewer than 25 appraisers in two or more states in a calendar year or 12-month period under state law.

³⁷ These definitions are nearly identical in the bill and in the final rule; however, in the definition of “appraiser panel” in the bill, the word “mortgage” is omitted from the phrase “secondary mortgage market” that is used in the final rule. See line 133 of the bill, and s. 323.9(e) of the final rule at

<https://www.asc.gov/documents/othercorrespondence/final%20rule%20for%20minimum%20requirements%20for%20amcs.pdf> (last visited Mar. 10, 2017) at page 32679.

³⁸ See 12 C.F.R. Part 323, § 323.9(e), (h), and (k), respectively.

³⁹ See note 36. The definition of “appraisal management company” in 12 U.S.C. 3350(11) and 12 C.F.R. 225.191(d) contains a similar provision for the number of appraisal panels that an appraisal management company must oversee in a year.

of a renewal application, proper fee, and proof of the licensee having satisfactorily completed a continuing education course or courses required by the board. According to the DBPR, education required for initial licensure and continuing education coursework currently provided by real estate schools is duplicative of post licensure education coursework.⁴⁰

Section 5 amends s. 475.621, F.S., to require the DBPR to collect data and required fees, and transmit a roster to the “appraisal subcommittee,” no less than annually, listing the persons or companies that hold a valid state registration as an appraisal management company. Under part II, ch. 475, F.S., the “appraisal subcommittee” is defined as 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.⁴¹ The bill authorizes the DBPR to collect from appraisal management companies seeking to perform appraisal management services in covered transactions (i.e., consumer credit transactions secured by the consumer’s principal dwelling) an annual fee established by the board.

Section 6 amends s. 475.6235(5), F.S., to remove the authority of the board to qualify a person for licensure, if it appears to the board, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, that the interest of the public is not likely to be endangered by the granting of registration. In current law, the board may qualify a person for registration, licensure, or certification as an appraiser who possesses the authority, directly or indirectly, to direct the management or policies of an appraisal management company, through ownership, contract or otherwise, and if the person has:

- Been denied registration, licensure, or certification as an appraiser or has been disbarred;
- Had a 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, 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 part II of ch. 475, F.S.; or
- Been guilty of conduct or practices in this state or elsewhere that would have been grounds for disciplining his or her registration, license, or certification under part II of ch. 475, F.S., had the person then been a registered trainee appraiser or a licensed or certified appraiser.

Additionally, the bill amends s. 475.6235(8)(b), F.S., to revise the types of entities to which s. 475.6235, F.S., does not apply by:

- Deleting reference to appraisal management companies owned and controlled by a financial institution defined in s. 655.005, F.S.; and
- Substituting a reference to “federally regulated appraisal management company” (which is defined in new paragraph (r) of s. 475.611, F.S., created in this bill).

Section 7 amends s. 475.6245, F.S., to allow the board also to deny the renewal of the license of an appraisal management company based on disciplinary action against the licensee, rather than just allowing denial of the initial application for licensure.

⁴⁰ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 716, dated Feb. 27, 2017 (on file with Senate Committee on Regulated Industries) at page 3.

⁴¹ See s. 475.611(1)(g), F.S.

The section authorizes the board to deny an application for registration or renewal of a registration or to reprimand or fine an appraisal management company that has required or attempt to require clients to sign any agreement that would require a client to hold harmless the appraisal management company or its owners, agents, or employees, from any liability, damage, loss, or claim arising from the services performed by an appraiser.

Section 8 re-enacts s. 475.626(1)(b), F.S., for the purpose of incorporating amendments to s. 475.626, F.S.

Section 9 amends s. 475.628(2), F.S., to authorize the board to adopt rules to establish standards of practice, other than the standards adopted by the Appraisal Standards Board of the Appraisal Foundation, for nonfederal transactions. The rules of the board must also require that the board mandate compliance with the Ethics and Competency Rules of the standards adopted by the Appraisal Standards Board of the Appraisal Foundation, for all appraisals other than those in federal transactions.

Section 10 re-enacts s. 475.629, F.S., on retention of records to incorporate the amendments made by the bill to s. 475.611, F.S., to include additional definitions.

Section 11 provides an effective date of October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

According to the Department of Business and Professional Regulation (DBPR), the bill will not increase the fees payable to and retained by the state.⁴² The federal Appraisal

⁴² See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 716, dated Feb. 27, 2017 (on file with Senate Committee on Regulated Industries) at page 5.

Subcommittee (ASC) charges a fee for each person (panelist) who serves on an appraiser panel⁴³ and performs services for the appraisal management company.⁴⁴

According to the DBPR, the fee charged by the ASC will range from \$25 to \$50 per panelist and is a pass-through payment the state must collect and remit to the ASC.⁴⁵ The DBPR indicates a similar process is currently in place for individual appraisers, including an annual charge of \$40 to each appraiser.⁴⁶

The DBPR indicates that the number of persons required to submit a set of fingerprints will increase because the number of persons for whom information must be submitted for licensure of an appraisal management company is expanded by the bill.

B. Private Sector Impact:

The DBPR reports that the ASC charges a fee for each person (panelist) who serves on an appraiser panel, ranging from \$25 to \$50.⁴⁷

C. Government Sector Impact:

The DBPR will experience an increased workload to bring the program into compliance with the final federal rules; however, the additional costs can be absorbed within existing resources.⁴⁸ In addition, the DBPR indicates it will require additional non-operating budget authority to transfer certain fees to the ASC.⁴⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 475.451, 475.611, 475.612, 475.621, 475.6235, 475.6245, and 475.628.

This bill re-enacts the following sections of the Florida Statutes: 475.626 and 475.629 .

⁴³ See s. 475.511(1)(i), F.S.

⁴⁴ See

<https://www.asc.gov/documents/othercorrespondence/final%20rule%20for%20minimum%20requirements%20for%20amcs.pdf> (last visited Mar. 10, 2017) at page 32658.

⁴⁵ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 716, dated Feb. 27, 2017 (on file with Senate Committee on Regulated Industries) at pages 5-6.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ ⁴⁸ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 716, dated Mar. 23, 2017 (on file with Senate Appropriations Subcommittee on General Government) at pages 7-8.

⁴⁹ *Id.* at page 6-8.

This bill repeals section 475.6175 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on April 13, 2017:

The committee substitute:

- Revises the definition of “appraisal management company” in s. 475.611(1)(c), F.S.
- Amends s. 475.6245, F.S., to authorize the Florida Real Estate Appraisal Board to deny an application for registration or renewal of a registration or to reprimand or fine an appraisal management company that has required or attempt to require clients to sign any agreement that would require a client to hold harmless the appraisal management company or its owners, agents, or employees, from any liability, damage, loss, or claim arising from the services performed by an appraiser.
- Re-enacts s. 475.626(1)(b), F.S., for the purpose of incorporating amendments to s. 475.626, F.S.

CS by Regulated Industries on March 15, 2017:

The committee substitute:

- Amends the definition of the term “appraisal panel” in s. 565.611(1)(i), F.S., to replace the term “appraisers engaged by the appraisal management company” with the term “appraisers employed by, contracted with, or otherwise retained by the appraisal management company;”
- Defines the term “evaluation” in s. 475.611(1)(q), F.S.;
- Revises the definition of “secondary mortgage market participant” in s. 475.611(1)(w), F.S., to include an underwriter or issuer of a mortgage-backed security;
- Creates s. 475.612(7), F.S., to permit an appraiser to perform an evaluation of real property in connection with federally regulated real estate financial transactions.
- Requires an appraiser providing services in a federally related transaction to comply with the standards for evaluation imposed by the federal financial institutions regulatory agency and other standards as prescribed by the board. An evaluation may not be referred to as an appraisal.
- Does not amend s. 475.6235(2)(f)5., F.S., to revise the required disclosure in an application for registration of an appraisal management company, to include each person who, directly or indirectly, owns or controls 10 percent or more of an ownership interest in the appraisal management company;
- Does not amend s. 475.6235(5), F.S., to remove the authority of the Florida Real Estate Appraisal Board (board) to disqualify certain persons with management responsibilities from registration, licensure, or certification as an appraiser, if they have been denied registration, licensure, or certification as an appraiser, have been disbarred, or had a license revoked or suspended in Florida or elsewhere for conduct that would have warranted a similar result or been grounds for discipline.

- Does not authorize the board to discipline an appraisal management company for failure to pay an appraiser in accordance with the federal Truth in Lending Act;
- Does not re-enact s. 475.626(1)(b), F.S., on violations and penalties to incorporate the amendments made by the bill to s. 475.6245, F.S.; and
- Amends s. 475.628 (2), F.S., to authorize the board to adopt rules to establish standards of practice, other than the standards adopted by the Appraisal Standards Board of the Appraisal Foundation, for nonfederal transactions.
- Requires the board to mandate compliance with the Ethics and Competency Rules of the standards adopted by the Appraisal Standards Board of the Appraisal Foundation for all appraisals other than those in a federal transaction.

B. Amendments:

None.