

By the Committees on General Government Appropriations; and Regulated Industries; and Senators Constantine and Fasano

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1 A bill to be entitled
2 An act relating to the regulation of real estate
3 appraisers and appraisal management companies;
4 amending s. 475.611, F.S.; providing definitions;
5 amending s. 475.613, F.S.; increasing the number of
6 members on the Florida Real Estate Appraisal Board;
7 amending s. 475.614, F.S.; requiring the Florida Real
8 Estate Appraisal Board to adopt certain rules;
9 amending s. 475.6147, F.S.; requiring application,
10 registration, and renewal fees for appraisal
11 management companies; creating s. 475.6235, F.S.;
12 requiring appraisal management companies to register
13 with the Department of Business and Professional
14 Regulation; specifying application requirements and
15 procedures; requiring the fingerprinting and criminal
16 history records checks of, and providing
17 qualifications for, certain persons who control
18 appraisal management companies; requiring nonresident
19 appraisal management companies to consent to
20 commencement of actions in this state; requiring the
21 department to adopt rules relating to the renewal of
22 registrations; amending s. 475.624, F.S.; conforming
23 provisions to changes made by the act; creating s.
24 475.6245, F.S.; providing for the discipline of
25 appraisal management companies by the board; amending
26 s. 475.626, F.S.; providing penalties; conforming
27 provisions to changes made by the act; amending s.
28 475.629, F.S.; revising requirements for the retention
29 of appraisal records; requiring appraisal management

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30 companies to follow such requirements; providing for
31 the appropriation of nonrecurring and recurring funds
32 from the Administrative Trust Fund and one full-time
33 equivalent position and associated salary rate to the
34 Department of Business and Professional Regulation;
35 providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

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

41 475.611 Definitions.—

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

43 (a) "Appraisal" or "appraisal services" means the services
44 provided by certified or licensed appraisers or registered
45 trainee appraisers, and includes:

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

53 2. "Analysis assignment" denotes appraisal services that
54 relate to the employer's or client's individual needs or
55 investment objectives and includes specialized marketing,
56 financing, and feasibility studies as well as analyses,
57 opinions, and conclusions given in connection with activities
58 such as real estate brokerage, mortgage banking, real estate

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59 counseling, or real estate consulting.

60 3. "Appraisal review assignment" denotes an engagement for
61 which an appraiser is employed or retained to develop and
62 communicate an opinion about the quality of another appraiser's
63 appraisal, appraisal report, or work. An appraisal review may or
64 may not contain the reviewing appraiser's opinion of value.

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

68 (c) "Appraisal management company" means a person who
69 performs appraisal management services.

70 (d) "Appraisal management services" means the coordination
71 or management of appraisal services for compensation by:

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

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

78 (e)-(e) "Appraisal report" means any communication, written
79 or oral, of an appraisal, appraisal review, appraisal consulting
80 service, analysis, opinion, or conclusion relating to the
81 nature, quality, value, or utility of a specified interest in,
82 or aspect of, identified real property, and includes any report
83 communicating an appraisal analysis, opinion, or conclusion of
84 value, regardless of title. However, in order to be recognized
85 in a federally related transaction, an appraisal report must be
86 written.

87 (f)-(d) "Appraisal review" means the act or process of

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88 developing and communicating an opinion about the quality of
89 another appraiser's appraisal, appraisal report, or work.

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

94 (h)~~(f)~~ "Appraiser" means any person who is a registered
95 trainee real estate appraiser, a licensed real estate appraiser,
96 or a certified real estate appraiser. An appraiser renders a
97 professional service and is a professional within the meaning of
98 s. 95.11(4)(a).

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

102 (j)~~(g)~~ "Board" means the Florida Real Estate Appraisal
103 Board established under this section.

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

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

112 (m) "Client" means a person who contracts with an appraiser
113 or appraisal management company for the performance of appraisal
114 services.

115 (n)~~(j)~~ "Department" means the Department of Business and
116 Professional Regulation.

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

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

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

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

143 (s) "Signature" means personalized evidence indicating
144 authentication of work performed by an appraiser and the
145 acceptance of responsibility for the content of an appraisal,

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146 appraisal review, or appraisal consulting service or conclusions
147 in an appraisal report.

148 (t)~~(e)~~ "Supervisory appraiser" means a licensed appraiser,
149 a certified residential appraiser, or a certified general
150 appraiser responsible for the direct supervision of one or more
151 registered trainee appraisers and fully responsible for
152 appraisals and appraisal reports prepared by those registered
153 trainee appraisers. The board, by rule, shall determine the
154 responsibilities of a supervisory appraiser, the geographic
155 proximity required, the minimum qualifications and standards
156 required of a licensed or certified appraiser before she or he
157 may act in the capacity of a supervisory appraiser, and the
158 maximum number of registered trainee appraisers to be supervised
159 by an individual supervisory appraiser.

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

166 (v)~~(q)~~ "Uniform Standards of Professional Appraisal
167 Practice" means the most recent standards approved and adopted
168 by the Appraisal Standards Board of the Appraisal Foundation.

169 (w)~~(r)~~ "Valuation services" means services pertaining to
170 aspects of property value and includes such services performed
171 by certified appraisers, registered trainee appraisers, and
172 others.

173 (x)~~(s)~~ "Work file" means the documentation necessary to
174 support an appraiser's analysis, opinions, and conclusions.

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

177 475.613 Florida Real Estate Appraisal Board.—

178 (1) There is created the Florida Real Estate Appraisal
179 Board, which shall consist of nine ~~seven~~ members appointed by
180 the Governor, subject to confirmation by the Senate. Four
181 members of the board must be real estate appraisers who have
182 been engaged in the general practice of appraising real property
183 in this state for at least 5 years immediately preceding
184 appointment. In appointing real estate appraisers to the board,
185 while not excluding other appraisers, the Governor shall give
186 preference to real estate appraisers who are not primarily
187 engaged in real estate brokerage or mortgage lending activities.
188 Two members of the board must represent the appraisal management
189 industry. One member of the board must represent organizations
190 that use appraisals for the purpose of eminent domain
191 proceedings, financial transactions, or mortgage insurance. Two
192 members of the board shall be representatives of the general
193 public and shall not be connected in any way with the practice
194 of real estate appraisal, real estate brokerage, or mortgage
195 lending. The appraiser members shall be as representative of the
196 entire industry as possible, and membership in a nationally
197 recognized or state-recognized appraisal organization shall not
198 be a prerequisite to membership on the board. To the extent
199 possible, no more than two members of the board shall be
200 primarily affiliated with any one particular national or state
201 appraisal association. Two of the members must be licensed or
202 certified residential real estate appraisers and two of the
203 members must be certified general real estate appraisers at the

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204 time of their appointment.

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

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

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

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

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

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

223 475.614 Power of board to adopt rules and decide questions
224 of practice; requirements for protection of appraiser's
225 signature.-

226 (1) The board has authority to adopt rules pursuant to ss.
227 120.536(1) and 120.54 to implement provisions of law conferring
228 duties upon it. The board may decide questions of practice
229 arising in the proceedings before it, having regard to this
230 section and the rules then in force.

231 (2) The board shall adopt rules specifying the means by
232 which an appraiser's signature may be affixed to an appraisal

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233 report or other work performed by the appraiser. The rules shall
234 include requirements for protecting the security of an
235 appraiser's signature and prohibiting practices that may
236 discredit the use of an appraiser's signature to authenticate
237 the work performed by the appraiser.

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

240 475.6147 Fees.—

241 (1) (a) The board by rule may establish fees to be paid for
242 application, licensing and renewal, certification and
243 recertification, registration and reregistration, reinstatement,
244 and recordmaking and recordkeeping.

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

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

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

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

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262 real estate appraisers.

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

265 475.6235 Registration of appraisal management companies
266 required.—

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

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

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

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

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

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

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

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

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

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

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

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

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

319 (g) The firm or business name under which any person listed

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320 in paragraph (f) conducted business as an appraisal management
321 company within the 5 years preceding the date of the
322 application.

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

325 (3) Appropriate fees, as set forth in the rules of the
326 board pursuant to s. 475.6147, and a complete set of
327 fingerprints for each person listed in paragraph (2)(f) must
328 accompany all applications for registration. The fingerprints
329 shall be forwarded to the Division of Criminal Justice
330 Information Systems within the Department of Law Enforcement for
331 purposes of processing the fingerprints to determine whether the
332 person has a criminal history record. The fingerprints shall
333 also be forwarded to the Federal Bureau of Investigation for
334 purposes of processing the fingerprints to determine whether the
335 person has a criminal history record. The information obtained
336 by the processing of fingerprints by the Department of Law
337 Enforcement and the Federal Bureau of Investigation shall be
338 sent to the department for the purpose of determining whether
339 the appraisal management company is statutorily qualified for
340 registration.

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

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

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

376 (7) An applicant for registration who is not a resident of
377 the state shall file an irrevocable consent that suits and

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378 actions may be commenced against the appraisal management
379 company in any county of the state in which a plaintiff having a
380 cause of action or suit against the company resides and that
381 service of any process or pleading in suits or actions against
382 the company may be made by delivering the process or pleading to
383 the director of the Division of Real Estate by certified mail,
384 return receipt requested, and also to the appraisal management
385 company by registered mail addressed to the company's designated
386 principal business location or, if its principal business
387 location is located in this state, to the company's registered
388 agent. Service, when so made, must be taken and held in all
389 courts to be as valid and binding upon the appraisal management
390 company as if made upon the company in this state within the
391 jurisdiction of the court in which the suit or action is filed.
392 The irrevocable consent must be in a form prescribed by the
393 department and be acknowledged before a notary public.

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

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

401 475.624 Discipline of appraisers.—The board may deny an
402 application for registration or certification of an appraiser;
403 may investigate the actions of any appraiser registered,
404 licensed, or certified under this part; may reprimand or impose
405 an administrative fine not to exceed \$5,000 for each count or
406 separate offense against any such appraiser; and may revoke or

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407 suspend, for a period not to exceed 10 years, the registration,
408 license, or certification of any such appraiser, or place any
409 such appraiser on probation, if the board ~~it~~ finds that the
410 registered trainee, licensee, or certificateholder:

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

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

435 (3) Has advertised services in a manner that ~~which~~ is

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436 fraudulent, false, deceptive, or misleading in form or content.

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

440 (5) Has been convicted or found guilty of, or entered a
441 plea of nolo contendere to, regardless of adjudication, a crime
442 in any jurisdiction which directly relates to the activities of
443 a registered trainee appraiser or licensed or certified
444 appraiser, ~~or~~ or which involves moral turpitude or fraudulent or
445 dishonest conduct. The record of a conviction certified or
446 authenticated in such form as admissible in evidence under the
447 laws of the state shall be admissible as prima facie evidence of
448 such guilt.

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

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

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465 the period of such incapacity.

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

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

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

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

490 (12) Has obtained or attempted to obtain a registration,
491 license, or certification by means of knowingly making a false
492 statement, submitting false information, refusing to provide
493 complete information in response to an application question, or

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494 engaging in fraud, misrepresentation, or concealment.

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

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

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

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

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

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

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

519 475.6245 Discipline of appraisal management companies.—

520 (1) The board may deny an application for registration of
521 an appraisal management company; may investigate the actions of
522 any appraisal management company registered under this part; may

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523 reprimand or impose an administrative fine not to exceed \$5,000
524 for each count or separate offense against any such appraisal
525 management company; and may revoke or suspend, for a period not
526 to exceed 10 years, the registration of any such appraisal
527 management company, or place any such appraisal management
528 company on probation, if the board finds that the appraisal
529 management company or any person listed in s. 475.6235(2)(f):

530 (a) Has violated any provision of this part or s.
531 455.227(1); however, any appraisal management company registered
532 under this part is exempt from s. 455.227(1)(i).

533 (b) Has been guilty of fraud, misrepresentation,
534 concealment, false promises, false pretenses, dishonest conduct,
535 culpable negligence, or breach of trust in any business
536 transaction in this state or any other state, nation, or
537 territory; has violated a duty imposed upon her or him by law or
538 by the terms of a contract, whether written, oral, express, or
539 implied, in an appraisal assignment; has aided, assisted, or
540 conspired with any other person engaged in any such misconduct
541 and in furtherance thereof; or has formed an intent, design, or
542 scheme to engage in such misconduct and committed an overt act
543 in furtherance of such intent, design, or scheme. It is
544 immaterial to the guilt of the appraisal management company that
545 the victim or intended victim of the misconduct has sustained no
546 damage or loss; that the damage or loss has been settled and
547 paid after discovery of the misconduct; or that such victim or
548 intended victim was a customer or a person in confidential
549 relation with the appraisal management company or was an
550 identified member of the general public.

551 (c) Has advertised services in a manner that is fraudulent,

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552 false, deceptive, or misleading in form or content.

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

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

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

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

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

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

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

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

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

608 (m) Has paid money or other valuable consideration, except
609 as required by this section, to any member or employee of the

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610 board to obtain a registration, license, or certification under
611 this section.

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

616 (o) Has engaged in the development of an appraisal or the
617 preparation of an appraisal report, unless the appraisal
618 management company is owned or controlled by persons who are
619 certified appraisers.

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

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

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

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

636 1. Withholding or threatening to withhold timely payment
637 for an appraisal, unless such nonpayment is based upon specific
638 quality or other service issues that constitute noncompliance

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639 with the appraisal engagement agreement.

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

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

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

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

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

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

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

662 9. Obtaining, using, or paying for a second or subsequent
663 appraisal or ordering an automated valuation model in connection
664 with a mortgage financing transaction unless there is a
665 reasonable basis to believe that the initial appraisal was
666 flawed or tainted and such basis is clearly and appropriately
667 noted in the loan file, or unless such appraisal or automated

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668 valuation model is issued pursuant to a bona fide prefunding or
669 postfunding appraisal review or quality control process.

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

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

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

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

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

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

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

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

695 (a) Provide additional information about the basis of a
696 valuation, including consideration of additional comparable

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697 data; or

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

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

702 475.626 Violations and penalties.—

703 (1) A person may not: ~~VIOLATIONS.—~~

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

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

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

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

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

722 (f)-(e) ~~No person shall~~ Fail or refuse to appear at the time
723 and place designated in a subpoena issued with respect to a
724 violation of this section, unless such failure to appear is the
725 result of facts or circumstances that are sufficient to excuse

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726 appearance in response to a subpoena from the circuit court; nor
727 ~~may shall~~ a person who is present before the board or a member
728 thereof or one of its authorized representatives acting under
729 authority of this section refuse to be sworn or to affirm or
730 fail or refuse to answer fully any question propounded by the
731 board, the member, or such representative, or by any person by
732 the authority of such officer or appointee.

733 ~~(g)-(f) No person shall~~ Obstruct or hinder in any manner the
734 enforcement of this section or the performance of any lawful
735 duty by any person acting under the authority of this section,
736 or interfere with, intimidate, or offer any bribe to any member
737 of the board or any of its employees or any person who is, or is
738 expected to be, a witness in any investigation or proceeding
739 relating to a violation of this section.

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

742 (2) ~~A PENALTIES. Any person who violates any provision of~~
743 ~~the provisions of~~ subsection (1) commits ~~is guilty of a~~
744 misdemeanor of the second degree, punishable as provided in s.
745 775.082 or s. 775.083, except when a different punishment is
746 prescribed by this section. ~~Nothing in~~ This section does not
747 ~~shall~~ prohibit the prosecution under any other criminal statute
748 of this state of any person for an act or conduct prohibited by
749 this section; however, in such cases, the state may prosecute
750 under this section or under such other statute, or may charge
751 both offenses in one prosecution, but the sentence imposed shall
752 not be a greater fine or longer sentence than that prescribed
753 for the offense which carries the more severe penalties. A civil
754 case, a criminal case, or a denial, revocation, or suspension

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755 proceeding may arise out of the same alleged state of facts, and
756 the pendency or result of one such case or proceeding shall not
757 stay or control the result of either of the others.

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

760 475.629 Retention of records.—An appraiser registered,
761 licensed, or certified under this part or an appraisal
762 management company registered under this part shall retain, for
763 at least 5 years or the period specified in the Uniform
764 Standards of Professional Appraisal Practice, whichever is
765 greater, original or true copies of any contracts engaging the
766 appraiser's or appraisal management company's services,
767 appraisal reports, and supporting data assembled and formulated
768 by the appraiser or company in preparing appraisal reports or
769 engaging in appraisal management services. Except as otherwise
770 specified in the Uniform Standards of Professional Appraisal
771 Practice, the period for retention of the records applicable to
772 each engagement of the services of the appraiser or appraisal
773 management company runs from the date of the submission of the
774 appraisal report to the client. These records must be made
775 available by the appraiser or appraisal management company for
776 inspection and copying by the department upon ~~on~~ reasonable
777 notice to the appraiser or company. However, the department may
778 not inspect or copy the records of an appraisal management
779 company except in connection with a pending investigation or
780 complaint. If an appraisal has been the subject of or has served
781 as evidence for litigation, reports and records must be retained
782 for at least 2 years after the trial or the period specified in
783 the Uniform Standards of Professional Appraisal Practice,

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784 whichever is greater.

785 Section 10. The sums of \$1,939 in nonrecurring funds and
786 \$43,192 in recurring funds from the Administrative Trust Fund
787 are appropriated and one full-time equivalent position and
788 associated salary rate is authorized to the Department of
789 Business and Professional Regulation to implement the provisions
790 of this act relating to the licensure and regulation of
791 appraisal management companies.

792 Section 11. This act shall take effect July 1, 2010.