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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 an
31 effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Subsection (1) of section 475.611, Florida
36 Statutes, is amended to read:

37 475.611 Definitions.—

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

39 (a) "Appraisal" or "appraisal services" means the services
40 provided by certified or licensed appraisers or registered
41 trainee appraisers, and includes:

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

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

56 3. "Appraisal review assignment" denotes an engagement for
57 which an appraiser is employed or retained to develop and
58 communicate an opinion about the quality of another appraiser's

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59 appraisal, appraisal report, or work. An appraisal review may or
60 may not contain the reviewing appraiser's opinion of value.

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

64 (c) "Appraisal management company" means a person who
65 performs appraisal management services.

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

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

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

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

83 (f)-~~d~~ "Appraisal review" means the act or process of
84 developing and communicating an opinion about the quality of
85 another appraiser's appraisal, appraisal report, or work.

86 (g)-~~e~~ "Appraisal subcommittee" means the designees of the
87 heads of the federal financial institutions regulatory agencies

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88 established by the Federal Financial Institutions Examination
89 Council Act of 1978 (12 U.S.C. ss. 3301 et seq.), as amended.

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

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

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

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

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

108 (m) "Client" means a person who contracts with an appraiser
109 or appraisal management company for the performance of appraisal
110 services.

111 (n)~~(j)~~ "Department" means the Department of Business and
112 Professional Regulation.

113 (o)~~(k)~~ "Direct supervision" means the degree of supervision
114 required of a supervisory appraiser overseeing the work of a
115 registered trainee appraiser by which the supervisory appraiser
116 has control over and detailed professional knowledge of the work

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117 being done. Direct supervision is achieved when a registered
118 trainee appraiser has regular direction, guidance, and support
119 from a supervisory appraiser who has the competencies as
120 determined by rule of the board.

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

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

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

139 (s) "Signature" means personalized evidence indicating
140 authentication of work performed by an appraiser and the
141 acceptance of responsibility for the content of an appraisal,
142 appraisal review, or appraisal consulting service or conclusions
143 in an appraisal report.

144 (t)~~(o)~~ "Supervisory appraiser" means a licensed appraiser,
145 a certified residential appraiser, or a certified general

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146 appraiser responsible for the direct supervision of one or more
147 registered trainee appraisers and fully responsible for
148 appraisals and appraisal reports prepared by those registered
149 trainee appraisers. The board, by rule, shall determine the
150 responsibilities of a supervisory appraiser, the geographic
151 proximity required, the minimum qualifications and standards
152 required of a licensed or certified appraiser before she or he
153 may act in the capacity of a supervisory appraiser, and the
154 maximum number of registered trainee appraisers to be supervised
155 by an individual supervisory appraiser.

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

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

165 (w)~~(r)~~ "Valuation services" means services pertaining to
166 aspects of property value and includes such services performed
167 by certified appraisers, registered trainee appraisers, and
168 others.

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

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

173 475.613 Florida Real Estate Appraisal Board.—

174 (1) There is created the Florida Real Estate Appraisal

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

201 (a) Members of the board shall be appointed for 4-year
202 terms. Any vacancy occurring in the membership of the board
203 shall be filled by appointment by the Governor for the unexpired

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204 term. Upon expiration of her or his term, a member of the board
205 shall continue to hold office until the appointment and
206 qualification of the member's successor. A member may not be
207 appointed for more than two consecutive terms. The Governor may
208 remove any member for cause.

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

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

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

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

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

219 475.614 Power of board to adopt rules and decide questions
220 of practice; requirements for protection of appraiser's
221 signature.—

222 (1) The board has authority to adopt rules pursuant to ss.
223 120.536(1) and 120.54 to implement provisions of law conferring
224 duties upon it. The board may decide questions of practice
225 arising in the proceedings before it, having regard to this
226 section and the rules then in force.

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

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233 the work performed by the appraiser.

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

236 475.6147 Fees.—

237 (1) (a) The board by rule may establish fees to be paid for
238 application, licensing and renewal, certification and
239 recertification, registration and reregistration, reinstatement,
240 and recordmaking and recordkeeping.

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

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

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

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

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

261 475.6235 Registration of appraisal management companies

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262 required.-

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

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

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

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

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

289 (d) The appraisal management company's type of business
290 organization, such as a corporation, partnership, limited

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291 liability company, or sole proprietorship.

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

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

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

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

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

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

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

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

319 (h) The appraisal management company's registered agent for

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320 service of process in this state.

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

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

345 (5) Each person listed in paragraph (2)(f) must be
346 competent and qualified to engage in appraisal management
347 services with safety to the general public and those with whom
348 the person may undertake a relationship of trust and confidence.

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

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

372 (7) An applicant for registration who is not a resident of
373 the state shall file an irrevocable consent that suits and
374 actions may be commenced against the appraisal management
375 company in any county of the state in which a plaintiff having a
376 cause of action or suit against the company resides and that
377 service of any process or pleading in suits or actions against

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

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

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

397 475.624 Discipline of appraisers.—The board may deny an
398 application for registration or certification of an appraiser;
399 may investigate the actions of any appraiser registered,
400 licensed, or certified under this part; may reprimand or impose
401 an administrative fine not to exceed \$5,000 for each count or
402 separate offense against any such appraiser; and may revoke or
403 suspend, for a period not to exceed 10 years, the registration,
404 license, or certification of any such appraiser, or place any
405 such appraiser on probation, if the board ~~it~~ finds that the
406 registered trainee, licensee, or certificateholder:

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

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

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

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

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

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

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

462 (8) Is confined in any county jail, postadjudication; is
463 confined in any state or federal prison or mental institution;
464 or, through mental disease or deterioration, can no longer

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465 safely be entrusted to deal with the public or in a confidential
466 capacity.

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

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

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

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

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

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494 this section.

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

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

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

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

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

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

515 475.6245 Discipline of appraisal management companies.—

516 (1) The board may deny an application for registration of
517 an appraisal management company; may investigate the actions of
518 any appraisal management company registered under this part; may
519 reprimand or impose an administrative fine not to exceed \$5,000
520 for each count or separate offense against any such appraisal
521 management company; and may revoke or suspend, for a period not
522 to exceed 10 years, the registration of any such appraisal

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523 management company, or place any such appraisal management
524 company on probation, if the board finds that the appraisal
525 management company or any person listed in s. 475.6235(2) (f):

526 (a) Has violated any provision of this part or s.
527 455.227(1); however, any appraisal management company registered
528 under this part is exempt from s. 455.227(1) (i).

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

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

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

551 (e) Has been convicted or found guilty of, or entered a

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552 plea of nolo contendere to, regardless of adjudication, a crime
553 in any jurisdiction which directly relates to the activities of
554 an appraisal management company or which involves moral
555 turpitude or fraudulent or dishonest conduct. The record of a
556 conviction certified or authenticated in such form as admissible
557 in evidence under the laws of the state shall be admissible as
558 prima facie evidence of such guilt.

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

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

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

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581 capacity.

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

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

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

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

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

608 (n) Has instructed an appraiser to violate any standard for
609 the development or communication of a real estate appraisal or

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610 other provision of the Uniform Standards of Professional
611 Appraisal Practice.

612 (o) Has engaged in the development of an appraisal or the
613 preparation of an appraisal report, unless the appraisal
614 management company is owned or controlled by persons who are
615 certified appraisers.

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

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

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

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

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

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

638 3. Promising future business, promotions, or increased

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639 compensation for an appraiser, whether the promise is express or
640 implied.

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

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

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

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

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

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

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

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668 impartiality.

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

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

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

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

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

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

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

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

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

696 Section 8. Section 475.626, Florida Statutes, is amended to

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697 read:

698 475.626 Violations and penalties.-

699 (1) A person may not: ~~VIOLATIONS.-~~

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

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

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

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

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

718 (f) ~~(e) No person shall~~ Fail or refuse to appear at the time
719 and place designated in a subpoena issued with respect to a
720 violation of this section, unless such failure to appear is the
721 result of facts or circumstances that are sufficient to excuse
722 appearance in response to a subpoena from the circuit court; nor
723 may shall a person who is present before the board or a member
724 thereof or one of its authorized representatives acting under
725 authority of this section refuse to be sworn or to affirm or

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726 fail or refuse to answer fully any question propounded by the
727 board, the member, or such representative, or by any person by
728 the authority of such officer or appointee.

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

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

738 (2) A ~~PENALTIES.~~ Any person who violates any provision of
739 ~~the provisions of~~ subsection (1) commits ~~is guilty of a~~
740 misdemeanor of the second degree, punishable as provided in s.
741 775.082 or s. 775.083, except when a different punishment is
742 prescribed by this section. ~~Nothing in~~ This section does not
743 ~~shall~~ prohibit the prosecution under any other criminal statute
744 of this state of any person for an act or conduct prohibited by
745 this section; however, in such cases, the state may prosecute
746 under this section or under such other statute, or may charge
747 both offenses in one prosecution, but the sentence imposed shall
748 not be a greater fine or longer sentence than that prescribed
749 for the offense which carries the more severe penalties. A civil
750 case, a criminal case, or a denial, revocation, or suspension
751 proceeding may arise out of the same alleged state of facts, and
752 the pendency or result of one such case or proceeding shall not
753 stay or control the result of either of the others.

754 Section 9. Section 475.629, Florida Statutes, is amended to

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755 read:

756 475.629 Retention of records.—An appraiser registered,
757 licensed, or certified under this part or an appraisal
758 management company registered under this part shall retain, for
759 ~~at least~~ 5 years or the period specified in the Uniform
760 Standards of Professional Appraisal Practice, whichever is
761 greater, original or true copies of any contracts engaging the
762 appraiser's or appraisal management company's services,
763 appraisal reports, and supporting data assembled and formulated
764 by the appraiser or company in preparing appraisal reports or
765 engaging in appraisal management services. Except as otherwise
766 specified in the Uniform Standards of Professional Appraisal
767 Practice, the period for retention of the records applicable to
768 each engagement of the services of the appraiser or appraisal
769 management company runs from the date of the submission of the
770 appraisal report to the client. These records must be made
771 available by the appraiser or appraisal management company for
772 inspection and copying by the department upon ~~on~~ reasonable
773 notice to the appraiser or company. However, the department may
774 not inspect or copy the records of an appraisal management
775 company except in connection with a pending investigation or
776 complaint. If an appraisal has been the subject of or has served
777 as evidence for litigation, reports and records must be retained
778 for at least 2 years after the trial or the period specified in
779 the Uniform Standards of Professional Appraisal Practice,
780 whichever is greater.

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