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CS/CS/CS/HB 303

2010 Legislature

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

30

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

33 475.611 Definitions.—

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

35 (a) "Appraisal" or "appraisal services" means the services
36 provided by certified or licensed appraisers or registered
37 trainee appraisers, and includes:

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

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

52 3. "Appraisal review assignment" denotes an engagement for
53 which an appraiser is employed or retained to develop and
54 communicate an opinion about the quality of another appraiser's
55 appraisal, appraisal report, or work. An appraisal review may or
56 may not contain the reviewing appraiser's opinion of value.

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

60 (c) "Appraisal management company" means a person who
61 performs appraisal management services.

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

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

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

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

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

82 (g)-(e) "Appraisal subcommittee" means the designees of the
83 heads of the federal financial institutions regulatory agencies
84 established by the Federal Financial Institutions Examination

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85 Council Act of 1978 (12 U.S.C. ss. 3301 et seq.), as amended.

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

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

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

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

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

105 (m) "Client" means a person who contracts with an
106 appraiser or appraisal management company for the performance of
107 appraisal services.

108 (n)~~(j)~~ "Department" means the Department of Business and
109 Professional Regulation.

110 (o)~~(k)~~ "Direct supervision" means the degree of
111 supervision required of a supervisory appraiser overseeing the
112 work of a registered trainee appraiser by which the supervisory

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113 appraiser has control over and detailed professional knowledge
114 of the work being done. Direct supervision is achieved when a
115 registered trainee appraiser has regular direction, guidance,
116 and support from a supervisory appraiser who has the
117 competencies as determined by rule of the board.

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

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

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

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

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

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

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

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

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

168 Section 2. Subsection (1) of section 475.613, Florida

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169 Statutes, is amended to read:

170 475.613 Florida Real Estate Appraisal Board.—

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

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197 time of their appointment.

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

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

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

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

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

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

216 475.614 Power of board to adopt rules and decide questions
217 of practice; requirements for protection of appraiser's
218 signature.—

219 (1) The board has authority to adopt rules pursuant to ss.
220 120.536(1) and 120.54 to implement provisions of law conferring
221 duties upon it. The board may decide questions of practice
222 arising in the proceedings before it, having regard to this
223 section and the rules then in force.

224 (2) The board shall adopt rules specifying the means by

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225 which an appraiser's signature may be affixed to an appraisal
 226 report or other work performed by the appraiser. The rules shall
 227 include requirements for protecting the security of an
 228 appraiser's signature and prohibiting practices that may
 229 discredit the use of an appraiser's signature to authenticate
 230 the work performed by the appraiser.

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

233 475.6147 Fees.—

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

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

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

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

251 (e) The board shall establish fees which are adequate to
 252 ensure its continued operation. Fees shall be based on estimates

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253 made by the department of the revenue required to implement this
254 part and other provisions of law relating to the regulation of
255 real estate appraisers.

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

258 475.6235 Registration of appraisal management companies
259 required.—

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

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

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

278 (b) The mailing address, street address, and telephone
279 number of the appraisal management company's principal business
280 location. The appraisal management company must notify the

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281 department of any change in the mailing or street address, on a
282 form provided by the department, within 10 days after such
283 change.

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

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

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

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

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

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

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

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

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

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

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

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

334 (4) At the time of filing an application for registration
335 of an appraisal management company, each person listed in
336 paragraph (2) (f) must sign a pledge to comply with the Uniform

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337 Standards of Professional Appraisal Practice upon registration
338 and must indicate in writing that she or he understands the
339 types of misconduct for which disciplinary proceedings may be
340 initiated. The application shall expire 1 year after the date
341 received.

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

364 (6) An applicant seeking to become registered under this

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365 part as an appraisal management company may not be rejected
366 solely by virtue of membership or lack of membership of any
367 person listed in paragraph (2) (f) or any employee of the company
368 in any particular appraisal organization.

369 (7) An applicant for registration who is not a resident of
370 the state shall file an irrevocable consent that suits and
371 actions may be commenced against the appraisal management
372 company in any county of the state in which a plaintiff having a
373 cause of action or suit against the company resides and that
374 service of any process or pleading in suits or actions against
375 the company may be made by delivering the process or pleading to
376 the director of the Division of Real Estate by certified mail,
377 return receipt requested, and also to the appraisal management
378 company by registered mail addressed to the company's designated
379 principal business location or, if its principal business
380 location is located in this state, to the company's registered
381 agent. Service, when so made, must be taken and held in all
382 courts to be as valid and binding upon the appraisal management
383 company as if made upon the company in this state within the
384 jurisdiction of the court in which the suit or action is filed.
385 The irrevocable consent must be in a form prescribed by the
386 department and be acknowledged before a notary public.

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

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

394 475.624 Discipline of appraisers.—The board may deny an
395 application for registration or certification of an appraiser;
396 may investigate the actions of any appraiser registered,
397 licensed, or certified under this part; may reprimand or impose
398 an administrative fine not to exceed \$5,000 for each count or
399 separate offense against any such appraiser; and may revoke or
400 suspend, for a period not to exceed 10 years, the registration,
401 license, or certification of any such appraiser, or place any
402 such appraiser on probation, if the board ~~it~~ finds that the
403 registered trainee, licensee, or certificateholder:

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

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

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420 licensed, licensee, or certified appraiser ~~certificatcholder~~
 421 that the victim or intended victim of the misconduct has
 422 sustained no damage or loss; that the damage or loss has been
 423 settled and paid after discovery of the misconduct; or that such
 424 victim or intended victim was a customer or a person in
 425 confidential relation with the registered trainee appraiser or
 426 licensed, licensee, or certified appraiser ~~certificatcholder~~, or
 427 was an identified member of the general public.

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

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

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

442 (6) Has had a registration, license, or certification as
 443 an appraiser revoked, suspended, or otherwise acted against; ~~or~~
 444 has been disbarred; ~~or~~ has had her or his registration,
 445 license, or certificate to practice or conduct any regulated
 446 profession, business, or vocation revoked or suspended by this
 447 or any other state, any nation, or any possession or district of

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448 | the United States;~~;~~ or has had an application for such
449 | registration, licensure, or certification to practice or conduct
450 | any regulated profession, business, or vocation denied by this
451 | or any other state, any nation, or any possession or district of
452 | the United States.

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

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

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

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

473 | (11) Has made or filed a report or record, either written
474 | or oral, that ~~which~~ the registered trainee appraiser or
475 | licensed, ~~licensee,~~ or certified appraiser certificateholder

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476 | knows to be false; has willfully failed to file a report or
477 | record required by state or federal law; has willfully impeded
478 | or obstructed such filing;it or has induced another person to
479 | impede or obstruct such filing. However, such reports or records
480 | shall include only those that ~~which~~ are signed or presented in
481 | the capacity of a registered trainee appraiser or licensed or
482 | certified appraiser.

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

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

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

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

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

500 | (17) Has accepted an appraisal assignment if the
501 | employment itself is contingent upon the appraiser reporting a
502 | predetermined result, analysis, or opinion~~r~~, or if the fee to be
503 | paid for the performance of the appraisal assignment is

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504 contingent upon the opinion, conclusion, or valuation reached
505 upon the consequences resulting from the appraisal assignment.

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

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

513 475.6245 Discipline of appraisal management companies.—

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

524 (a) Has violated any provision of this part or s.
525 455.227(1); however, any appraisal management company registered
526 under this part is exempt from s. 455.227(1) (i).

527 (b) Has been guilty of fraud, misrepresentation,
528 concealment, false promises, false pretenses, dishonest conduct,
529 culpable negligence, or breach of trust in any business
530 transaction in this state or any other state, nation, or
531 territory; has violated a duty imposed upon her or him by law or

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532 by the terms of a contract, whether written, oral, express, or
 533 implied, in an appraisal assignment; has aided, assisted, or
 534 conspired with any other person engaged in any such misconduct
 535 and in furtherance thereof; or has formed an intent, design, or
 536 scheme to engage in such misconduct and committed an overt act
 537 in furtherance of such intent, design, or scheme. It is
 538 immaterial to the guilt of the appraisal management company that
 539 the victim or intended victim of the misconduct has sustained no
 540 damage or loss; that the damage or loss has been settled and
 541 paid after discovery of the misconduct; or that such victim or
 542 intended victim was a customer or a person in confidential
 543 relation with the appraisal management company or was an
 544 identified member of the general public.

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

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

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

557 (f) Has had a registration, license, or certification as
 558 an appraiser or a registration as an appraisal management
 559 company revoked, suspended, or otherwise acted against; has been

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560 disbarred; has had her or his registration, license, or
 561 certificate to practice or conduct any regulated profession,
 562 business, or vocation revoked or suspended by this or any other
 563 state, any nation, or any possession or district of the United
 564 States; or has had an application for such registration,
 565 licensure, or certification to practice or conduct any regulated
 566 profession, business, or vocation denied by this or any other
 567 state, any nation, or any possession or district of the United
 568 States.

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

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

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

583 (j) Has been found guilty, for a second time, of any
 584 misconduct that warrants disciplinary action, or has been found
 585 guilty of a course of conduct or practice that shows that she or
 586 he is incompetent, negligent, dishonest, or untruthful to an
 587 extent that those with whom she or he may sustain a confidential

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588 relationship may not safely do so.

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

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

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

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

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

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

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

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

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

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

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

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

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

643 5. Requesting that an appraiser provide an estimated,

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

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

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

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

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

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

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

670 (u) Has employed, contracted with, or otherwise retained
671 an appraiser whose registration, license, or certification is

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672 suspended or revoked to perform appraisal services or appraisal
673 management services.

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

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

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

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

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

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

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

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

696 475.626 Violations and penalties.—

697 (1) A person may not: VIOLATIONS.—

698 (a) ~~No person shall~~ Operate or attempt to operate as a
699 registered trainee appraiser, a ~~or~~ licensed or certified

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700 appraiser, or an appraisal management company without being the
701 holder of a valid and current registration, license, or
702 certification.

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

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

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

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

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

727 (g) ~~(f) No person shall~~ Obstruct or hinder in any manner

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728 the enforcement of this section or the performance of any lawful
729 duty by any person acting under the authority of this section,
730 or interfere with, intimidate, or offer any bribe to any member
731 of the board or any of its employees or any person who is, or is
732 expected to be, a witness in any investigation or proceeding
733 relating to a violation of this section.

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

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

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

754 475.629 Retention of records.—An appraiser registered,
755 licensed, or certified under this part or an appraisal

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

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