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Indicates New Matter

Committee Report

April 30, 2024

H. 3278

Introduced by Reps. West, Ligon and Sandifer

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Read the first time February 07, 2024

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The committee on Senate Labor, Commerce and Industry

To whom was referred a Bill (H. 3278) to amend the South Carolina Code of Laws by amending Sections 40‑60‑30, 40‑60‑31, and 40‑60‑33, all relating to real estate appraiser licensure requirements, so, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass:

THOMAS C. “TOM” DAVIS for Committee.

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A bill

to amend the South Carolina Code of Laws by amending Sections 40‑60‑30, 40‑60‑31, and 40‑60‑33, all relating to real estate appraiser licensure requirements, so as to modify EXEMPTIONS, revise and provide education requirements and acceptable equivalencies for apprentice appraisers; and to revise requirements and qualifications for licensed mass appraisers; by amending Section 40‑60‑34, relating to requirements relating to apprentice appraisers and appraiserS supervising apprentices, so as to revise requirements; by amending Section 40‑60‑35, relating to Continuing education requirements, so as to impose reporting requirements upon licensees; by adding Section 40‑60‑36 so as to impose reporting requirements upon providers; by amending Section 40‑60‑37, relating to Reciprocal applications from appraisers from other jurisdictions, so as to make a technical correction; by amending Section 40‑60‑40, relating to required appraiser contact information, so as to include email addresses of licensees; by amending Section 40‑60‑320, relating to definitions, so as to revise the definition of appraisal panel; by amending Section 40‑60‑330, relating to Registration requirements, so as to revise requirements concerning certain financial information; by amending Section 40‑60‑360, relating to Promulgation of regulations, so as to specify required regulations; by amending Section 40‑60‑420, relating to Record‑keeping requirements for registration renewal, so as to revise requirements concerning records that appraisal management COMPANIES must provide; and by amending Section 40‑60‑450, relating to compensation, so as to clarify THE applicable governing federal regulations.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40-60-10(B) of the S.C. Code is amended to read:

(B) The South Carolina Real Estate Appraisers Board consists of eight members who must be residents of this State and appointed by the Governor with the advice and consent of the Senate and with consideration given to appropriate geographic representation and to areas of appraisal expertise as follows:

(1) One member must be a public member who may not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. The member from the general public may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40-1-45.

(2) One member must be a licensed real estate broker who is not a real estate appraiser.

(3) One member must be actively engaged in mortgage lending, representing supervised financial institutions, who is not a real estate licensee or a real estate appraiser and who also must not be connected in any way with the brokerage of real estate, the appraisal of real estate, or the review of real estate appraisals.

(4) Four members must be licensed or certified appraisers, actively engaged in real estate appraisal for at least three years, at least twoone of whom must be a certified general appraisersappraiser and at least one of whom must be a certified residential appraiser. In appointing real estate appraisers to the board, the Governor, while not automatically excluding other appraisers, shall give preference to real estate appraisers whose primary source of income is derived from appraising real estate and not real estate brokerage.

(5) One member must represent an appraisal management company registered with the board.

SECTION 2. Section 40-60-20 of the S.C. Code is amended to read:

Section 40-60-20. As used in this chapter unless the context requires otherwise:

(1) “Analysis” means a study of real estate or real property other than one estimating value.

(2) “Appraisal”, as a noun, means the act or process of developing an opinion of value; as an adjective, “appraisal” means of or pertaining to appraising and related functions including, but not limited to, appraisal practice and appraisal services.

(3) “Appraisal assignment” or “valuation assignment” means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion that estimates the value of real estate.

(4) “Appraisal Foundation” means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois, containing the Appraisal Standards Board (ASB), Appraiser Qualifications Board (AQB), a board of trustees, and other advisory bodies.

(5) “Appraisal report” means any communication, written or oral, of an appraisal or appraisal review. The testimony of an individual dealing with the analyses, conclusions, or opinions concerning identified real estate or real property may beis considered to be an oral appraisal report.

(6) “Appraisal subcommittee” means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended, as well as the Secretary of the Department of Housing and Urban Development, or histhe secretary’s designee, under the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. Section 1708(e)(g)).

(7) “Appraiser” means a person who holds a permit, license, or certification issued by the board that allows the person to appraise real propertyto perform valuation services competently and in a manner that is independent, impartial, and objective, and in accordance with all applicable laws.

(8) “Apprentice appraiser” means an individual authorized by permitwho holds a credential issued by the board to assist a state-certified appraiser in the performance of an appraisal if the apprentice is actively and personally supervised by the certified appraiser.

(9) “Board” means the South Carolina Real Estate Appraisers Board established pursuant to the provisions of this chapter.

(10) “Complex residential property appraisal” means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(11) “Federally related transaction” means any real estate-related financial transaction which a federal financial institution regulatory agency engages in, contracts for, or regulates and which requires the services of an appraiser.

(12) “Market analysis” means a study of real estate market conditions for a specific type of property.

(13)(12) “Mass appraisal” means the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

(14)(13) “Mass appraiser” means any appraiser who is employed in the office of a tax assessor to appraise real property for ad valorem tax purposes and who is licensed or certified as a mass appraiser.

(15)(14) “Noncomplex residential property appraisal” means one in which the property to be appraised, the form of ownership, and market conditions are those which are typically found in the subject market.

(16)(15) “Person” means an individual, corporation, partnership, or association, foreign and domestic.

(16) “Price” means the amount asked, offered, or paid for a property.

(17) “Real estate” means an identified parcel or tract of land including improvements, if any.

(18) “Real estate appraisal activity” means the act or process of performing an appraisal and preparing an appraisal report.

(19) “Real property” means the interests, benefits, and rights inherent in the ownership of real estate.

(20) “Residential appraisal” is an appraisal of a vacant or improved parcel of land that is devoted to or available for use as a one to four family abode including, but not limited to, a single-family home, apartment, or rooming house.

(21) “Standards of professional appraisal practice” or “USPAP” means the National Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of the Appraisal Foundation and adopted by the board.

(22) “State-certified general appraiser” means an appraiser authorized to engage in the appraisal of all types of real property.

(23) “State-certified general mass appraiser” means an appraiser authorized to engage in all types of real estate mass appraisal activity for ad valorem purposes.

(24) “State-certified residential appraiser” means an appraiser authorized to engage in the appraisal of one to four residential units without regard to transaction value or complexity and nonresidential appraisals with a transaction value less than two hundred fiftyfive hundred thousand dollars.

(25) “State-certified residential mass appraiser” means an appraiser authorized to engage in the mass appraisal of one to four residential units without regard to value or complexity and nonresidential appraisals with a transaction value less than two hundred fiftyfive hundred thousand dollars.

(26) “State-licensed appraiser” means an appraiser authorized to engage in the appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than two hundred fiftyfive hundred thousand dollars.

(27) “State-licensed mass appraiser” means an appraiser authorized to engage in the mass appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than two hundred fiftyfive hundred thousand dollars.

(28) “Timberland” means forestland that is producing or is capable of producing timber as a crop.

(29) “Valuation Services” means an estimate of the value of real estate or real property based on assignment instructions of the client in accordance with federal law or regulations.

(30) “Value” means the monetary relationship between properties and those who buy, sell, or use those properties, expressed as an opinion of the worth of the property at a given time.

SECTION 3. Section 40-60-30 of the S.C. Code is amended to read:

Section 40-60-30. It is unlawful for an individual to assume or use a title, designation, or abbreviation likely to create the impression that the person is a real estate appraiser or to engage in real estate appraisal activity or advertise as an appraiser without a valid license issued by the department. However, nothing in this chapter may be construed to apply to:

(1) A real estate licensee licensed in accordance with Chapter 57, Title 40 who performs a market analysis or gives an opinion as to the pricevaluation services of real estate for a client or customer on the condition that the market analysis or opinionvaluation service is not referred to as an appraisal. BeforeIn performing a market analysisvaluation service, which federal law or regulation does not require a license or certified appraiser, the real estate licensee must disclose to the requesting party: “This market analysisvaluation service may not be used for the purposes of obtaining financing in a federally related transaction”.

(2) A forester registered pursuant to Chapter 27, Title 48 who appraises or valuesperforms valuation services on standing or growing timber or timberland located in this State and issues an appraisal or a valuation service on the timber or timberland, as permitted by Chapter 27, Title 48 and Regulation 53-13. When an appraisal ora valuation service is to be used in a federally related transaction, the registered forester must be licensed or certified under this chapter if required by federal law or regulation.

(3) An employee ofA person employed by a lender in the performance of appraisals or valuationsvaluation services with respect to which federal law or regulations does not require a licensed or certified appraiser. This exception does not apply to third party contractors.

(4) A person, credentialed by this board in the performance of valuation services, with respect to which federal law or regulation does not require a licensed or certified appraiser.

SECTION 4. Section 40‑60‑31 of the S.C. Code is amended to read:

Section 40‑60‑31. To qualify as an appraiser, an applicant shall:

(1) have attained the age of eighteen years;

(2) satisfy educational requirements of having:

(a) graduated from high school or hold a certificate of equivalency to become an apprentice appraiser;

(b) an associate degree or its equivalent as promulgated by the board through regulation to become a licensed appraiser; or

(c) a bachelor's degree or its equivalent as promulgated by the board through regulation to become a state‑certified residential appraiser or state‑certified general appraiser

(a) as an apprentice, state‑licensed, or mass appraiser:

(i) a high school diploma; or

(ii) hold a certificate of equivalency;

(b) as a state‑certified residential appraiser:

(i) a high school diploma or certificate of equivalency; and

(ii) additional education as required by the Appraiser Qualifications Board of the Appraisal Foundation or as promulgated by the board through regulation;

(iii) in lieu of a degree, have thirty semester hours of specific college‑level courses as provided by the Appraisers Qualification Board of the Appraisal Foundation or the board through regulation; or

(iv) be a state‑licensed appraiser for five years as provided by the Appraisers Qualification Board of the Appraisal Foundation or the board through regulation;

(c) as a state‑certified general appraiser, a bachelor’s degree;

(3) submit proof of completion of appraiser qualifying education as required by the Appraiser Qualifications Board and, if applicable, experience requirements as specified in this chapter or promulgated by the board through regulation;

(4) submit certificates of licensure from all jurisdictions where presently or previously certified;

(5) submit to a state fingerprint-based criminal records check, to be conducted by the State Law Enforcement Division, a national criminal records check, supported by fingerprints, conducted by the FBI, and, if required by the Appraiser Qualifications Board, undergo a criminal background check in compliance with AQB requirements to be submitted by the applicant with his application; and

(6) pass an examination, if applicable. Effective July 1, 2014, anAn applicant who does not become licensed or certified within two years after passing the examination must retake the examination.

SECTION 5. Section 40‑60‑33 of the S.C. Code is amended to read:

Section 40‑60‑33. In addition to the requirements of Section 40‑60‑31, an applicant for a permit, license, or certification shall provide proof of having met the following educational and applicable experience requirements:

(1) To qualify as an apprentice appraiser, an applicant shall:

(a) furnish evidence that the applicant will be supervised by an appraiser who is state certified by the board;

(b) furnish evidence that the applicant has successfully completed within the past five years at least seventy‑five hours of courses approvedadditional education as required by the Appraiser Qualifications Board or promulgated by the board in regulation; and

(c) attend successfully complete a trainee/supervisor orientationcourse conducted in compliance with AQBthe Appraiser Qualifications Board requirements.

(2) To qualify as a state‑licensed appraiser or licensed mass appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed within the past five years one hundred fiftyadditional seventy‑five hours of education as required for licensure by the board in approved appraisal coursesby the Appraiser Qualifications Board or promulgated by the board in regulation;

(b) demonstrate two one thousand hours of appraisal experience since January 1, 1992, but in not less than twenty‑four six monthssuccessfully complete experience as required by the Appraiser Qualifications Board or promulgated by the board in regulation. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(3) To qualify as a state‑certified residential appraiser or certified residential mass appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed within the past five years two hundred an additional fifty hours ofadditional education as required for residential certification by the board in approved appraisal coursesby the Appraiser Qualifications Board or promulgated by the board in regulation;

(b) demonstrate two one thousand five hundred hours of appraisal experience since January 1, 1992, but in not less than twenty‑four twelve monthssuccessfully complete experience as required by the Appraiser Qualifications Board or promulgated by the board in regulation. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(4) To qualify as a state‑certified general appraiser or certified general mass appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed within the past five years three two hundred and twenty‑five hours of additional education required for general certification by the board in approved appraisal coursesby the Appraiser Qualifications Board or promulgated by the board in regulation;

(b) demonstrate three thousand hours of appraisal experience since January 1, 1992, but in not less than thirty eighteen months and of which at least fifty percent must be in nonresidential appraisal worksuccessfully complete experience as required by the Appraiser Qualifications Board or promulgated by the board in regulation. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(5) To qualify as a licensed mass appraiser, state‑certified residential mass appraiser, or state‑certified general mass appraiser, the applicant shall satisfy the requirements enumerated in this section, and any other applicable provisions of this chapter to qualify, respectively, as a licensed appraiser, state‑certified residential appraiser, and state‑certified general appraiser, with the exception that one hundred percent of the required experience hours for the mass appraiser designations may be in the area of mass appraisals.

SECTION 6. Section 40‑60‑34 of the S.C. Code is amended to read:

Section 40‑60‑34. (A) The board shall prescribe the form of a permit, license, and certificate containing an identification number that the appraiser shall use when signing appraisal reports. When an appraiser advertises or executes contracts or other instruments, the appraiser's name, appraiser classification, and number assigned by the board must be printed or typed adjacent to the appraiser's signature.

(B) The apprentice appraiser performing fee appraisal work or seeking to establish experience for a state‑licensed or state‑certified designation shall:

(1) perform appraisal assignments only under the direct supervision of a state‑certified appraiser;

(2) maintain, jointly with the supervising appraiser, a log containing the following for each assignment:

(a) type of property;

(b) date of report;

(c) address of appraised property;

(d) description of work performed by the trainee apprentice and scope of review and supervision of the supervising appraiser;

(e) number of actual work hours by the trainee apprentice on the assignment; and

(f) signature and state certification number of the supervising appraiser with a separate appraisal log maintained for each supervising appraiser, if applicable;

(3) sign or be given credit in all appraisal reports for which the apprentice acts as an appraiser;

(4) maintain or have access to complete copies of all appraisals.

(C) The apprentice appraiser performing mass appraisal work seeking to establish credit for a licensed or certified mass appraiser designation shall:

(1) perform appraisal assignments only under the direct supervision of a state‑certified residential or state‑certified general real estate appraiser, mass or otherwise;

(2) maintain a log on a form provided by the board.

(D) The supervisory appraiser supervising an apprentice fee appraiser shall:

(1) personally review appraisal reports prepared by the apprentice and sign and certify the report as being independently and impartially prepared in compliance with the National USPAP and applicable statutory requirements;

(2) provide a copy or access to final appraisal documents to any participating apprentice;

(3) directly supervise no more than three apprentice appraisers at any one given time, unless board approval is received to supervise more than three apprentices subject to required progress monitoring as approved by the board;

(4) be certified for a minimum of three years and not subject to any disciplinary action within the immediately preceding three years that affects the supervisory appraiser’s legal eligibility to engage in appraisal practice; and

(5) attendsuccessfully complete a trainee/supervisor orientationcourse conducted in compliance with AQBAppraiser Qualifications Board requirements.

(E) The supervisory appraiser supervising an apprentice appraiser performing mass appraisal work shall personally review and approve all work performed by the apprentice to ensure that the work is prepared in compliance with the National USPAP and applicable statutory requirements.

(F) The board may issue to an appraiser who is licensed or certified in another state a temporary permit, which is only effective for one specific appraisal assignment. If the appraisal is not completed within six months from the date of the permit, the board may grant an extension upon request from the appraiser prior to the expiration of the current temporary permit. The appraiser shall place the following notation on all statements of qualification, contracts, or other instruments: “Practicing in the State of South Carolina under Temporary Permit No.”.

(G) Licenses, and certifications, and apprentice permitsissued by the board expire biennially on June thirtieth. As a condition of renewal, an appraiser shall provide evidence satisfactory to the board of having met the continuing education requirements established by this chapter. An apprentice appraiser may maintain the permittheir license for five years before applying for an upgrade, provided continuing education requirements are satisfied biennially at renewal.

(H) Permits, licenses, orLicenses and certifications not renewed by date of expiration are no longer valid but may be reinstated within twelve months after expiration upon proper application, payment of renewal fee, a late penalty, as established in the fee schedule, and proof of having met continuing education requirements as prescribed.

(I) A permit, license, or certification that has expired and has not been reinstated by the last day of the twelfth month following expiration must be canceled. Such a canceled ~~permit,~~ license, or certification may be considered for reinstatement as provided by the board in regulation.

(J) A license or certification may be placed on inactive status by informing the board in writing and must be renewed in the same manner as provided for active renewal. An expired or lapsed apprentice appraiser licensee can reapply for licensure if initial qualifying courses have been completed within five years of the application date.

(K) A fee An appraiser must retain the work file for a period of at least five years after preparation or at least two years after the final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last. The work file must include the original or exact copy of each appraisal report prepared or signed by the appraiser and all supporting data assembled and formulated by the appraiser in preparing each appraisal report. The five‑year period for retention of records is applicable to each engagement of the services of the appraiser and commences on the date of delivery of each appraisal report to the client. The appraiser must retain the work file for a period of at least two years after final disposition of appeals of all judicial proceedings in which the appraiser provided testimony related to the assignment, whichever period expires last.

(L) An appraiser who has had a permit, license, or certification revoked by the board may not be issued a new permit, license, or certification within two years after the date of the revocation or at any time thereafter except upon an affirmative vote of a majority of the board.

SECTION 7. Section 40‑60‑35(A)(1) of the S.C. Code is amended to read:

(1) For renewal of an active permit, license, or certification, an appraiser shall present evidence biennially of satisfactory completion by the applicant of twenty‑eight hours of instruction in courses or seminars that have been approved by the board, of which seven hours must be the National USPAP update course current at the time of renewal. Licensees shall report completed continuing education as required by the board.

SECTION 8. Section 40-60-36(H) of the S.C. Code is amended to read:

(H) Approved instructors shall attend biennial instructor development workshops sponsored by the board whenever possible or provide evidence of equivalent hours of continuing education that increases their knowledge of either the subject content in their area of expertise or their teaching techniquesProviders must report completed continuing education of licensees within fourteen days of course completion as required by the board.

SECTION 9. Section 40‑60‑37(A) of the S.C. Code is amended to read:

(A) The board may acceptmust grant a reciprocal applications from credential to an appraisers from other jurisdictionsappraiser credentialed in another jurisdiction if:. These applicants may be given waivers of education, examination, and experience requirements if the board considers the education and, examination, and experience requirements of another jurisdiction to be substantially equivalent to the requirements of this chapter

(1) the appraiser holds a valid credential to value real property that is in good standing in at least one other jurisdiction; and

(2) the requirements to obtain a credential to value real property in the jurisdiction in which the appraiser is credentialed have been found by the appraisal subcommittee to conform to the qualification criteria of the Appraiser Qualifications Board.

SECTION 10. Section 40-60-40 of the S.C. Code is amended to read:

Section 40-60-40. (A) Each licensee and apprentice must maintain on file with the board a current streetphysical address at which they may be found.

(B) Each licensee and apprentice must notify the board in writing within fifteen days of any change in residential address, office address, or office telephone number, or email address.

(C) Service of any notice upon a licensee who cannot be found at the last known address provided by the licensee may be made by leaving with the director, or designee, a copy of the notice and any accompanying documents along with proof of attempted service at the last known address. The board may set aside and reopen a proceeding upon satisfactory showing by the licensee of good cause as to why the licensee did not receive service of the notice.

SECTION 11. Section 40-60-50(D) of the S.C. Code is amended to read:

(D) Application and license fees are payable to the department in advance and must accompany an examination application or a license applicationproper documentation. Fees are nonrefundable.

SECTION 12. Section 40-60-70 of the S.C. Code is amended to read:

Section 40-60-70. Appraisers shall conduct themselves in accordance with a code of ethics as established in the Uniform Standards of Professional Appraisal Practice (USPAP) and adopted by the board.

SECTION 13. Section 40-60-80 of the S.C. Code is amended to read:

Section 40-60-80. (A) The department shall investigate complaints and violations of this chapter as provided in this chapter and Section 40-1-80.

(B) If a complaint filed with the board involves an appraisal report that varies from a sales, lease, or exchange price, the board may decline to conduct an investigation.

(C) If a complaint filed with this board is received without a stated complainant, along with contact information and supporting documentation as to potential violations, the board may decline to conduct an investigation.

(C)(D) The board is prohibited from conducting an investigation based solely on a dispute over the value of property for ad valorem tax purposes.

(D)(E) A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160 and the South Carolina Administrative Procedures Act.

SECTION 14. Section 40-60-110 of the S.C. Code is amended to read:

Section 40-60-110. In addition to the grounds provided in Section 40-1-110, the board may deny licensure to an applicant or may take disciplinary action against an appraiser who:

(1) fails to meet the minimum qualifications for a permit, license, or certification established by or pursuant to this chapter;

(2) procures or attempts to procure a permit, license, or certification by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board, or procures or attempts to procure a permit, license, or certification through fraud or misrepresentation;

(3) performs an act in the practice of real estate appraising that constitutes dishonest, fraudulent, or improper conduct;

(4) engages in the business of real estate appraising under an assumed or fictitious name;

(5) pays a finder's fee or a referral fee in connection with an appraisal of real estate or real property in this State;

(6) makes a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(7) violates the confidential nature of governmental records to which an appraiser gained access through employment or engagement as an appraiser by a governmental agency;

(8) violates any of the standards for the development or communication of real estate appraisals as promulgated by the board in regulationset forth in this chapter or regulations promulgated pursuant to this chapter;

(9) fails or refuses without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(10) exhibits negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(11) accepts an independent appraisal assignment or valuation assignment when the employment itself or fee to be paid was contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, opinion, or conclusion or upon the award, recovery, or consequences resulting from the appraisal assignment;

(12) fails to retain records in accordance with this chapter or regulations promulgated pursuant to this chapter;

(13) fails upon reasonable request of an investigator of the board to make all records required to be maintained under this chapter available to the board for inspection and copying by the board or fails to appear upon reasonable request for an interview with an investigator of the board;

(14) demonstrates bad faith, dishonesty, untrustworthiness, or incompetency to act as an appraiser in a manner so as to endanger the interests of the public;

(15) performs or attempts to perform any real estate appraisal activity on property located in another state without first having complied with that state's laws regarding real estate appraisal activity;

(16) performs or attempts to perform, if licensed or certified as a mass appraiser, any appraisal other than those for ad valorem tax purposes and directly related to the assessor office employment duties of the mass appraiser, unless assisting and supervised by a nonmass-certified appraiser;

(17) has been convicted of or pleaded guilty or nolo contendere to a felony relating to the practice of appraisal, banking, mortgage lending, or the provision of financial services, or a crime involving moral turpitude or pleaded guilty or nolo contendere to any such offensefraud or misrepresentation;

(18) fails to report to the department in writing by certified mail, within ten days, notice of conviction of a crime provided for in item (17);

(19) has had a license to practice a regulated profession or occupation in this State, another state or jurisdiction canceled, revoked, suspended, or otherwise disciplined;

(20) issues a check to the board that is returned for insufficient funds or closed account;

(21) fails to comply with or obey a final order of the board or has failed to comply with an order, subpoena, or directive of the board or department;

(22) violates any provision of this chapter or any regulation promulgated under this chapter;

(23) has knowingly performed an act that in any way assists an unlicensed person to practice;

(24) has failed to cooperate with an investigation or other proceeding of the board;

(25) has failed to appear before the board after receiving a formal notice to appear.

SECTION 15. Section 40-60-220 of the S.C. Code is amended to read:

Section 40-60-220. A person who is licensedcredentialed in this State as a licensed appraiser, licensed mass appraiser, state-certified residential appraiser, state-certified residential mass appraiser, state-certified general appraiser, or state-certified general mass appraiser on December 31, 2014, may continue licensure in that category without meeting the requirements of Section 40-60-31 and Section 40-60-33, so long as the person is otherwise authorized to hold the license.

SECTION 16. Section 40-60-320 of the S.C. Code is amended to read:

Section 40-60-320. For the purposes of this article:

(1) “Appraisal management company” or “AMC” means a person that: an external third party, in connection with valuing properties, collateralizing mortgage loans, or incorporating mortgages into a securitization. The third party must be authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter or by other principal in the secondary mortgage markets that oversees a network or panel of more than fifteen certified or licensed appraisers in a state or twenty-five or more nationally within a given year in order to:

(a) recruit, select, and retain appraisers;

(b) contract with licensed and certified appraisers to perform appraisal assignments;

(c) manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(d) review and verify the work of appraisers.

(a) provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(b) provides such services in connection with valuing a consumer’s principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(c) within a given twelve-month period, oversees an appraiser panel or more than fifteen state-certified or state-licensed appraisers in a state or twenty-five or more state-certified or state-licensed appraisers in two or more states.

Notwithstanding the foregoing, an AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

(2) “Appraisal management services” means the process of receiving a request for the performance of real estate appraisal services from a client and, for a fee paid by the client, entering into an agreement with one or more certified or licensed appraisers, who are independent contractors, to perform the real estate appraisal services contained in the requestone or more of the following:

(a) recruiting, selecting, and retaining appraisers;

(b) contracting with state-certified or state-licensed appraisers to perform appraisal assignments;

(c) managing the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; or

(d) reviewing and verifying the work of appraisers.

(3) “Appraiser panel” means a group of certified or licensed appraisers, who are independent contractors, selected by an appraisal management company to perform real estate appraisal services for the appraisal management companya network, list, or roster of licensed or certified appraisers approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an AMC's “appraiser panel” under this section include both appraisers accepted by the AMC for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions and appraisers engaged by the AMC to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this item if the appraiser is treated as an independent contractor by the AMC for purposes of federal income taxation.

(4) “Appraisal review” means the act, by a certified or licensed appraiser employed by an appraisal management company, of developing and communicating an opinion about the quality of work of another appraiser that was performed as part of an appraisal assignment. Appraisal review does not include:

(a) an examination by an unlicensed employee of an appraisal management company for an appraisal solely for grammatical errors, typographical errors, or other similar errors; or

(b) a quality control examination for completeness that does not make a valuation change.

(5) “Client” means a person or entity that contracts with, or otherwise enters into an agreement with, an appraisal management company for the purpose of real estate appraisal services.

(6) “Controlling person” means:

(a) an owner, officer, or director of a corporation, partnership, limited liability company, or other business entity that seeks to offer an appraisal management service in this State;

(b) an individual employed, appointed, or authorized by an appraisal management company authorized to enter a management agreement with certified or licensed appraisers, who are independent contractors, for the performance of real estate appraisal services; or

(c) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(7) “Covered transaction” means any consumer credit transaction secured by a consumer’s principal dwelling, which does not have to be a federally related transaction.

(7)(8) “Independent contractor” means a person in a trade, business, or profession in which he offers his services to the general public, in which the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

(8)(9) “Real estate appraisal services” means the practice of developing an opinion of the value of real property in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) published by the Appraisal Foundation.

(9)(10) “Payor” means a person or entity responsible for making payment for the appraisal.

SECTION 17. Section 40-60-330 of the S.C. Code is amended to read:

Section 40-60-330. (A)(1) A person may not directly or indirectly engage or attempt to engage in business as an appraisal management company, or directly or indirectly engage or attempt to perform appraisal management services, or advertise or hold himself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the board under the provisions of this chapter.

(2) To register as an appraisal management company, an applicant shall submit to the board an application on a form or forms prescribed by the board.

(3) In the event that a registration process is unavailable upon the effective date of this article, an appraisal management company already conducting business in this State may continue to conduct business pursuant to the article until one hundred twenty days after a registration process becomes available.

(B) The registration application required in subsection (A) must include:

(1) the name of the entity seeking registration;

(2) the business address of the entity seeking registration;

(3) contact information of the entity seeking registration;

(4) the name and contact information for the company's agent for service of process in this State if the entity seeking registration is not a corporation that is domiciled in this State;

(5) contact information for an individual, corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;

(6) the name, address, and contact information of a controlling person;

(7) certification that the entity seeking registration has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a certification or license in good standing in this State pursuant to the South Carolina Real Estate Appraisers Act;

(8) certification that the applicant has a system in place to review the work of all certified or licensed appraisers who are independent contractors and perform real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted pursuant to Uniform Standards of Professional Appraisals Practice;

(9) certification that the entity maintains a detailed record of each service request that it receives and the certified or licensed appraisers who are independent contractors and who perform the real estate appraisal services for the appraisal management company;

(10) an irrevocable consent to service of process;

(11) a detailed statement of current financial condition of the entity on a form approved by the board or a surety bond in an amount not to exceed fifty thousand dollars, whichever the registering appraisal management company selects a surety bond in the amount of twenty-five thousand dollars on a surety bond form approved by the board, provided:

(a) the registration requirement provided in this item does not apply to an individual appraiser or an individual appraiser serving on an appraisal panel of an appraisal management company, and appraisal management companies are responsible for any cost of a surety bond as required by this item;

(b) surety bond claims may be filed by the claimant in accordance with the terms of the surety bond on a bond claim form approved by the board, provided claims are limited to actual damages and do not include attorney’s fees or punitive damages incurred by the claimant; and

(c) all liability on a surety bond is applicable to the surety bond in effect as of the date of occurrence which gave rise to the liability;

(12) authorization for the board to conduct a criminal background check of all controlling persons and any individual who owns ten percent or more of the appraisal management companya criminal history background check, pursuant to Section 40-60-31(5), for each controlling person and any individual who owns more than ten percent of the appraisal management company. All costs associated with obtaining a criminal history background check shall be the responsibility of the regulated individual or entity; and

(13) certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion, as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act, 15 U.S.C. Section 1639e.

(C) A change of an entity's name, address, organizational status, or federal identification number must be reported to the department within fifteen days. Failure to do so may result in registration cancellation and the requirement of the new entity to submit an initial application and meet all requirements for registration.

(D) The board shall review and approve or deny the registration of an appraisal management company.

(E) The registration requirement provided in subsection (B)(11), whether a financial statement or a surety bond is selected, does not apply to individual appraisers or individual appraisers serving on an appraisal panel of an appraisal management company. Appraisal management companies shall be responsible for any cost of a surety bond as required by subsection (B)(11).

SECTION 18. Section 40-60-340(5) of the S.C. Code is amended to read:

(5) ana federally regulated appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency, exceptowned and controlled by an insured depository institution as defined in 12 U.S.C. Section 1813 and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, except that each appraisal management company exempt from registration pursuant to this subsection shall comply with the requirements of Section 40-60-360(C).

SECTION 19. Section 40-60-350 of the S.C. Code is amended to read:

Section 40-60-350. (A) An initial registration granted by the board pursuant to this article is valid for one year from the date of issuance through expiration unless renewed pursuant to subsection (B).

(B) To renew bienniallyanually, an entity actively registered under this article shall submit all information required by the board before June thirtieth, and the board shall review and renew or review and deny the renewal of the registration of an appraisal management company.

(C) Failure to renew registration by the renewal date must result in the loss of authority to operate under this article. An AMC that fails to renew may be subject to penalties as provided for in this chapter.

(D) A request to reinstate registration within twelve months of expiration must be accompanied by a payment penalty of one hundred dollars for each month of delinquencyas promulgated by the board in regulation.

(E) A registration expired for more than twelve months must be canceled but may be considered for reinstatement by the board upon proper application and payment of the original registration fee and any late fee. The application must be reviewed by the board to determine reinstatement and any further required conditions of the reinstatement.

SECTION 20. Section 40-60-360 of the S.C. Code is amended to read:

Section 40-60-360. (A) The board shall promulgate regulations to establish fees for registration, renewal, and reinstatement and additional fees as are reasonably necessary for the administration of this chapter and as required in subsection (B) and (C). The fees must be established in consideration of the costs of administering this chapter and the actual cost of the specific service to be provided or performed. The board periodically shall review and adjust the schedule of fees as needed to cover expenses.

(B) The board also shall collect the information and national registry fees established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338 and regulations adopted pursuant to it from each appraisal management company registered in this State or seeking to be registered in this State.

(C) The board shall collect the information and the national registry fees established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338 and regulations adopted pursuant to it from each appraisal management company exempt from registration pursuant to Section 40-60-340(5).

(D) All appraisal management company national registry fees collected must be transferred to the appraisal subcommittee.

(E) The board shall adopt regulations regarding the determination of the size of the appraiser panel of an appraisal management company in accordance with the rules of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338.

(F) Notwithstanding another provision of this chapter, pursuant to 12 U.S.C. Section 3338 and regulations pursuant to it, the board must transmit to the appraisal subcommittee, on a timely basis, reports of supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including investigations initiated and action taken.

SECTION 21. Section 40-60-370 of the S.C. Code is amended to read:

Section 40-60-370. (A) An appraisal management company applying for registration in this State may notshall not be registered in this State or included on the national registry if:

(1) be ownedit is owned, in whole or in part, directly or indirectly, by a person who has had an appraiser certificate or license refused, denied, canceled, surrendered in lieu of revocation, or revoked in this State or in another state unless the certificate or license was subsequently granted or reinstated; orfor a substantive cause, as determined by the appropriate state appraiser certifying the licensing agency;

(2) be more than ten percent owned by aany person who isowns more than ten percent of the appraisal management company if the board determines he does not ofhave good moral character, which for purposes of this section requires that the person has not been convicted of or entered a plea of nolo contendere to a felony relating to the practice of appraisal, banking, mortgage lending, or the provision of financial services, or a crime involving fraud, or misrepresentation, or moral turpitude.; or

(3) any controlling person or person who owns more than ten percent of the appraisal management company fails to submit to a criminal history background check as required by Section 40-60-31(5) of this chapter or regulations promulgated pursuant to it.

(B) For purposes of this section, each owner of more than ten percent of an appraisal management company shall submit to a criminal background check.

SECTION 22. Section 40-60-400 of the S.C. Code is amended to read:

Section 40-60-400. An employee, or independent contractor of, the appraisal management company must be an appraiser certified or licensed in this State to perform a Uniform Standards of Professional Appraisals Practice StandardStandards 3 and 4 appraisal review of property located in this State.

SECTION 23. Section 40‑60‑420 of the S.C. Code is amended to read:

Section 40‑60‑420. An appraisal management company seeking to be registered shall certify to the board, at each renewal, that it shall:

(1) maintains maintain a detailed record of each service request that it receives for at least the latter of:

(a) five years after the date of service request; or

(b) two years after final disposition of a judicial proceeding in which the appraisal management company provided testimony related to an assignment; and

(2) has have a policy that requires a certified or licensed appraiser who is an independent contractor and who performs a real estate appraisal service for the appraisal management company to maintain those records, including, but not limited to, the work file, for at least the later latter of:

(a) five years after preparation; or

(b) two years after the final disposition of a judicial proceeding in which the appraiser or the appraisal management company provided testimony related to the assignment.

SECTION 24. Section 40‑60‑450(B) of the S.C. Code is amended to read:

(B) An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the requirements of 15 U.S.C. Section 1639e and regulations adopted pursuant to it including, but not limited to, 12 C.F.R. 1026.42.

SECTION 25. This act takes effect upon approval by the Governor.

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