

LEGISLATIVE BILL 17

Approved by the Governor March 21, 2018

Introduced by Erdman, 47; Craighead, 6.

A BILL FOR AN ACT relating to real property; to amend sections 76-2228.02, 76-3201, 76-3202, 76-3203, 76-3204, 76-3205, 76-3206, 76-3207, 76-3208, 76-3210, 76-3212, 76-3213, 76-3214, 76-3215, 76-3216, and 76-3217, Revised Statutes Cumulative Supplement, 2016; to change and eliminate provisions relating to the Real Property Appraiser Act and the Nebraska Appraisal Management Company Registration Act; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 76-2228.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-2228.02 (1) Each trainee real property appraiser's experience shall be subject to direct supervision by a supervisory appraiser. To qualify as a supervisory appraiser, a real property appraiser shall:

(a) Be a certified residential real property appraiser or certified general real property appraiser in good standing;

(b) Have held a certified real property appraiser credential in this state, or the equivalent in any other jurisdiction, for a minimum of three years immediately preceding the date of the written request for approval as supervisory appraiser;

(c) Have not successfully completed disciplinary action by the board or any other jurisdiction, which action limited the real property appraiser's legal eligibility to engage in real property appraisal activity within three years immediately preceding the date the written request for approval as supervisory appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board;

(d) As prescribed by rules and regulations of the board, have successfully completed a board-approved seven-hour supervisory appraiser and trainee course within two years immediately preceding the date the written request for approval as supervisory appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board; and

(e) Certify that he or she understands his or her responsibilities and obligations under the Real Property Appraiser Act as a supervisory appraiser and applies his or her signature to the written request for approval as supervisory appraiser submitted by the applicant or trainee real property appraiser.

(2) The supervisory appraiser shall be responsible for the training and direct supervision of the trainee real property appraiser's experience by:

(a) Accepting responsibility for the report by applying his or her signature and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice;

(b) Reviewing the trainee real property appraiser reports; and

(c) Personally inspecting each appraised property with the trainee real property appraiser as is consistent with his or her scope of practice until the supervisory appraiser determines that the trainee real property appraiser is competent in accordance with the competency rule of the Uniform Standards of Professional Appraisal Practice.

(3) A certified real property appraiser disciplined by the board or any other appraiser regulatory agency in another jurisdiction, which discipline may or may not have limited the real property appraiser's legal eligibility to engage in real property appraisal activity, shall not be eligible as a supervisory appraiser as of the date disciplinary action was imposed against the appraiser by the board or any other appraiser regulatory agency. The certified real property appraiser shall be considered to be in good standing and eligible as a supervisory appraiser upon the successful completion of disciplinary action that does not limit the real property appraiser's legal eligibility to engage in real property appraisal activity, or three years after the successful completion of disciplinary action that limits the real property appraiser's legal eligibility to engage in real property appraisal activity.

(4) The trainee real property appraiser may have more than one supervisory appraiser, but a supervisory appraiser may not supervise more than three trainee real property appraisers at one time.

(5) As prescribed by rules and regulations of the board, an appraisal experience log shall be maintained jointly by the supervisory appraiser and the trainee real property appraiser.

Sec. 2. Section 76-3201, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3201 Sections 76-3201 to 76-3220 and sections 5, 6, 19, and 20 of this act shall be known and may be cited as the Nebraska Appraisal Management Company Registration Act.

Sec. 3. Section 76-3202, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3202 For purposes of the Nebraska Appraisal Management Company

Registration Act:

(1) Affiliate means any person that controls, is controlled by, or is under common control with, another person;

(2) AMC National Registry means the registry of appraisal management companies that hold a registration as an appraisal management company issued by the board or the equivalent issued in another jurisdiction, and federally regulated appraisal management companies, maintained by the Appraisal Subcommittee;

(3) AMC final rule means, collectively, the rules adopted by the federal agencies as required in section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as such rules existed on January 1, 2018;

(4) (1) Appraisal has the same meaning as in section 76-2204;

(2) Appraisal Foundation has the same meaning as in section 76-2205;

(5) (3) Appraisal management company means a person that, in connection with valuing real property collateralizing mortgage loans, mortgages, or trust deeds incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen certified or licensed appraisers in this state or twenty-five or more certified or licensed appraisers nationally within a given year and that is authorized, either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets:

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

(b) Provides appraisal management 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 twelve-month period, oversees an appraiser panel of:

(i) More than fifteen AMC appraisers who each hold a credential in this state; or

(ii) Twenty-five or more AMC appraisers who each hold a credential or equivalent in two or more jurisdictions;

(6) Appraisal management services means one or more of the following:

(a) To recruit, select, and retain AMC appraisers;

(b) To contract with AMC certified or licensed appraisers to perform assignments real property appraisal activity;

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

(d) To review and verify the work of AMC appraisers;

(7) (4) Appraisal practice has the same meaning as in section 76-2205.01;

(8) Appraisal Subcommittee means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(9) AMC appraiser means a person who holds a valid credential or equivalent to appraise real estate and real property under the laws of this state or another jurisdiction, and holds the status of active on the National Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council in one or more jurisdictions;

(5) Appraisal review means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of a real property appraisal activity, except that a quality control examination of a report shall not be an appraisal review;

(6) Appraisal services means residential valuation assignments performed by an individual acting as an appraiser, including, but not limited to, appraisal or appraisal review;

(7) Appraiser means an individual who holds a license or certification as an appraiser and is expected to perform valuation assignments competently and in a manner that is independent, impartial, and objective;

(10) (8) Appraiser panel means a network, list, or roster of AMC appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company group of licensed or certified independent appraisers that have been selected to perform appraisal services for a third party;

(11) Assignment has the same meaning as in section 76-2207.01;

(12) (9) Board has the same meaning as in section 76-2207.02 means the Real Property Appraiser Board;

(13) Consumer credit means credit offered or extended to a consumer primarily for personal, family, or household purposes;

(10) Controlling person means:

(a) An officer or director of, or owner of greater than a ten percent interest in, a corporation, partnership, or other business entity seeking to act or acting as an appraisal management company in this state;

(b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of services requiring registration as an appraisal management company and that has the authority to enter into agreements with appraisers for the performance of appraisals; 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;~~

~~(14) Covered transaction means any consumer credit transaction secured by the consumer's principal dwelling;~~

~~(15) Credential has the same meaning as in section 76-2207.09;~~

~~(16) Creditor means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a downpayment, and to whom the obligation is initially payable, either on the face of the note or contract or by agreement when there is no note or contract. A person regularly extends consumer credit if:~~

~~(a) The person extended credit, other than credit subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2018, more than five times for transactions secured by a dwelling in the preceding calendar year, or in the current calendar year if a person did not meet these standards in the preceding calendar year; and~~

~~(b) In any twelve-month period, the person originates more than one credit extension that is subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2018, or one or more such credit extensions through a mortgage broker;~~

~~(17) Contact person means a person designated by the appraisal management company as the main contact for all communication between the appraisal management company and the board;~~

~~(18) Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property, including an individual condominium unit, cooperative unit, mobile home, or trailer if used as a residence. With respect to a dwelling:~~

~~(a) A consumer may have only one principal dwelling at a time;~~

~~(b) A vacation or secondary dwelling is not a principal dwelling; and~~

~~(c) A dwelling bought or built by a consumer with the intention of that dwelling becoming the consumer's principal dwelling within one year, or upon completion of construction, is considered to be the consumer's principal dwelling for the purpose of the Nebraska Appraisal Management Company Registration Act;~~

~~(19) Federally regulated appraisal management company means an appraisal management company that is:~~

~~(a) Owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813, as such section existed on January 1, 2018; and~~

~~(b) Regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the successor of any such agencies;~~

~~(20) (11) Federal agencies financial institution regulatory agency means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, or the successor of any of such agencies;~~

~~(21) Financial Institutions Reform, Recovery, and Enforcement Act of 1989 has the same meaning as in section 76-2207.14;~~

~~(22) Independent contractor means a person established as an independent contractor by the appraisal management company for the purpose of federal income taxation;~~

~~(23) Jurisdiction has the same meaning as in section 76-2207.16;~~

~~(12) Federally related transaction means any real estate-related financial transaction which:~~

~~(a) A federal financial institution regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and~~

~~(b) Requires the services of an appraiser;~~

~~(13) Owned and controlled means direct or indirect ownership or control of more than twenty-five percent of the voting shares of an appraisal management company;~~

~~(24) (14) Person has the same meaning as in section 76-2213.02 means an individual, firm, partnership, limited partnership, limited liability company, association, corporation, or other group engaged in joint business activities, however organized;~~

~~(15) Quality control examination means an examination of a report for compliance and completeness, including grammatical, typographical, or other similar errors;~~

~~(25) (16) Real estate has the same meaning as in section 76-2214;~~

~~(17) Real estate-related financial transaction means any transaction involving:~~

~~(a) The sale, lease, purchase, investment in, or exchange of real property, including interests in real property or the financing thereof;~~

~~(b) The refinancing of real property or interests in real property; or~~

~~(c) The use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities;~~

~~(26) (18) Real property has the same meaning as in section 76-2214.01;~~

~~(27) (19) Real property appraisal activity has the same meaning as in section 76-2215;~~

~~(28) Registration means a registration as an appraisal management company in this state issued by the board if all requirements for approval as an appraisal management company required in the Nebraska Appraisal Management Company Registration Act have been met by a person making application to the~~

board, including the submission of all required fees, and the board has granted all rights to the person to operate as an appraisal management company in this state as allowed under the act;

~~(20) Relocation management company means a business entity in which the preponderance of its business services include relocation of employees as an agent or contracted service provider to the employer for the purposes of determining an anticipated sales price for the residence of an employee being relocated by the employer;~~

~~(29) (21) Report has the same meaning as in section 76-2216.02;~~

~~(30) Secondary mortgage market participant means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities, and only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security;~~

~~(31) (22) Uniform Standards of Professional Appraisal Practice has the same meaning as in section 76-2218.02; and~~

~~(32) (23) Valuation services assignment has the same meaning as in section 76-2219.01 76-2219.~~

Sec. 4. Section 76-3203, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3203 (1) An application for issuance of a registration shall be made in writing to the board on forms approved by the board, which includes, but is not limited to, all information required by the board necessary to administer and enforce the Nebraska Appraisal Management Company Registration Act, and the name of the contact person for the appraisal management company. It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the board.

~~(2) An application for the registration required by subsection (1) of this section shall include the following information:~~

~~(a) The name of the person seeking registration and any other name or names, if any, under which it will do business in this state;~~

~~(b) The business address of the person seeking registration;~~

~~(c) The telephone contact information of the person seeking registration;~~

~~(d) If the person seeking registration is not a corporation that is domiciled in this state, the name and contact information for the person's agent for service of process in this state;~~

~~(e) The name, address, and contact information for any person that owns ten percent or more of the person seeking registration;~~

~~(f) The name, address, and contact information for one controlling person designated as the main contact for all communication between the person seeking registration and the board;~~

~~(g) A certification that the person seeking registration has a system and process in place to verify that an appraiser selected to the appraiser panel of the person seeking registration holds a license or certification in good standing in this state pursuant to the Real Property Appraiser Act;~~

~~(h) A certification that the person seeking registration requires appraisers completing appraisal services at the person's request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence;~~

~~(i) A certification that the person seeking registration has a system in place to verify that only licensed or certified appraisers are used for federally related transactions;~~

~~(j) A certification that the person seeking registration 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 federal Truth in Lending Act, as amended, including the requirements for payment of a reasonable and customary fee to appraisers when the appraisal management company is providing appraisal services for a consumer credit transaction secured by the principal dwelling of a consumer;~~

~~(k) A certification that the person seeking registration maintains a detailed record of each request for appraisal services that it receives and the appraiser that performs the residential real estate appraisal services for the appraisal management company;~~

~~(l) If the person seeking registration is a nonresident, an irrevocable consent for service of process, if required pursuant to section 76-3205; and~~

~~(m) Any other information required by the board which is reasonably necessary to implement the Nebraska Appraisal Management Company Registration Act.~~

~~(3) An applicant for registration as an appraisal management company in this state shall submit to the board an application on a form or forms prescribed by the board.~~

~~(2) (4) An applicant for issuance of a registration as an appraisal management company in this state shall furnish to the board, at the time of making application, a surety bond in the amount of twenty-five thousand dollars. The surety bond required under this subsection shall be issued by a bonding company or insurance company authorized to do business in this state, and a copy of the bond shall be filed with the board. The bond shall be in favor of the state for the benefit of any person who is damaged by any violation of the Nebraska Appraisal Management Company Registration Act. The bond shall also be in favor of any person damaged by such a violation. Any~~

person claiming against the bond for a violation of the act may maintain an action at law against the appraisal management company and against the surety. The aggregate liability of the surety to all persons damaged by a violation of the act by an appraisal management company shall not exceed the amount of the bond. The bond shall be maintained until one year after the date that the appraisal management company ceases operation in this state.

(3) A registration shall be issued only to persons who:

(a) Meet the requirements for issuance of a registration;

(b) Have a good reputation for honesty, trustworthiness, integrity, and competence to perform appraisal management services in such manner as to safeguard the interest of the public as determined by the board; and

(c) Have not had a final civil or criminal judgment entered against them for fraud, dishonesty, breach of trust, or misrepresentation involving real estate, financial services, or appraisal management services within a five-year period immediately preceding the date of application.

(4) A registration shall be valid for a period of twelve months beginning on the date which the registration was issued or renewed unless canceled, revoked, or surrendered.

(5) All information related to an appraisal management company's registration shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee.

(6) The renewal of a registration includes the same requirements found in subsections (1) through (5) of this section. An application for renewal of a registration shall be furnished to the board no later than sixty days prior to the date of expiration of the registration.

(7) For the purpose of subdivision (5) of section 76-3202, the twelve-month period for renewal of a registration shall consist of the twelve months pursuant to subsection (4) of this section.

(5) A registration issued pursuant to the Nebraska Appraisal Management Company Registration Act shall be valid for two years after the date on which it is issued. An application for the renewal of a registration shall include substantially similar information required for the initial registration as provided in subsection (2) of this section.

Sec. 5. (1) Only AMC appraisers considered to be in good standing in all jurisdictions in which an active credential is held shall be included on an appraisal management company's appraiser panel.

(2) An appraisal management company shall remove any AMC appraiser from its appraiser panel within thirty days after receiving notice that the AMC appraiser:

(a) Is no longer considered to be in good standing in one or more jurisdictions in which he or she holds an active credential or equivalent;

(b) The AMC appraiser's credential or equivalent has been refused, denied, canceled, or revoked; or

(c) The AMC appraiser has surrendered his or her credential or equivalent in lieu of revocation.

(3) Pursuant to subdivision (5)(c) of section 76-3202, an appraiser panel shall include each AMC appraiser as of the earliest date on which such person was accepted by the appraisal management company:

(a) For consideration for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or

(b) For engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions.

(4) Any AMC appraiser included on an appraisal management company's appraiser panel pursuant to subsection (3) of this section shall remain on such appraiser panel until the date on which the appraisal management company:

(a) Sends written notice to the AMC appraiser removing him or her from the appraiser panel. Such written notice shall include an explanation of the action taken by the appraisal management company;

(b) Receives written notice from the AMC appraiser requesting that he or she be removed from the appraiser panel. Such written notice shall include an explanation of the action requested by the AMC appraiser; or

(c) Receives written notice on behalf of the AMC appraiser of the death or incapacity of the AMC appraiser. Such written notice shall include an explanation on behalf of the AMC appraiser.

(5) Upon receipt of notice that he or she has been removed from the appraisal management company's appraiser panel, an AMC appraiser shall have thirty days to provide a response to the appraisal management company that removed the AMC appraiser from its appraiser panel. Upon receipt of the AMC appraiser's response, the appraisal management company shall have thirty days to reconsider the removal and provide a written response to the AMC appraiser.

(6) If an AMC appraiser is removed from an appraisal management company's appraiser panel pursuant to subsection (4) of this section, nothing shall prevent the appraisal management company at any time during the twelve months after removal from the appraiser panel from considering such person for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, or for engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions. If such consideration or engagement takes place, the

removal shall be deemed not to have occurred and such person shall be deemed to have been included on the appraiser panel without interruption.

(7) Any AMC appraiser included on an appraisal management company's appraiser panel engaged in appraisal practice or real property appraisal activity as a result of an assignment provided by an appraisal management company shall be free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the federal Truth in Lending Act, as such section existed on January 1, 2018, including the requirements for payment of a reasonable and customary fee to AMC appraisers when the appraisal management company is engaged in providing appraisal management services.

(8) An appraisal management company shall select an AMC appraiser from its appraiser panel for an assignment who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the assignment for the particular market and property type.

Sec. 6. (1) A federally regulated appraisal management company must report all information required to be submitted to the Appraisal Subcommittee pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee related to its operation in this state, including, but not limited to, the collection of information related to ownership limitations.

(2) The board may collect and transmit to the Appraisal Subcommittee any fees established by the Appraisal Subcommittee pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee required for inclusion on the AMC National Registry, and collect any fees as deemed appropriate by the board for services provided as related to a federally regulated appraisal management company's operation in this state.

(3) Nothing in the Nebraska Appraisal Management Company Registration Act shall prevent issuance by the board of a registration to a federally regulated appraisal management company.

(4) Except for a federally regulated appraisal management company that holds a registration issued by the board, section 76-3202, and this section, a federally regulated appraisal management company is exempt from the Nebraska Appraisal Management Company Registration Act.

Sec. 7. Section 76-3204, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3204 The Nebraska Appraisal Management Company Registration Act does not apply to:

(1) A department or division of a person that provides appraisal management services only to itself; or

(2) A person that provides appraisal management services but does not meet the requirement established by subdivision (5)(c) of section 76-3202.

~~(1) A person that exclusively employs persons for the performance of appraisal services. The employer is responsible for ensuring that the appraisal services are performed by employees in accordance with the Uniform Standards of Professional Appraisal Practice;~~

~~(2) An appraisal management company that is owned and controlled by a financial institution regulated by a federal financial institution regulatory agency;~~

~~(3) An appraiser that enters into an agreement, written or oral, with an appraiser for the performance of appraisal services if upon the completion of the appraisal services the report is signed by both the appraiser who completed the appraisal services and the appraiser who requested the appraisal services; or~~

~~(4) A relocation management company.~~

Sec. 8. Section 76-3205, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3205 Each person seeking registration as an appraisal management company that holds a registration but in this state that is not domiciled in this state shall submit an irrevocable consent that service of process upon such person may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the person in an action against the applicant in a court of this state arising out of the person's activities in this state.

Sec. 9. Section 76-3206, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3206 (1) The board shall charge and collect fees for its services under the Nebraska Appraisal Management Company Registration Act as follows:

(a) ~~(1)~~ An application fee of no more than three hundred fifty dollars;

(b) ~~An (2)~~ an initial registration fee of no more than two thousand dollars;

(c) ~~A (3)~~ a renewal registration fee of no more than one thousand five hundred dollars; and

(d) ~~A (4)~~ a late renewal processing fee of twenty-five dollars for each month or portion of a month the renewal registration fee is late.

(2) The board may collect and transmit to the Appraisal Subcommittee any fees established by the Appraisal Subcommittee under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee required for inclusion on the AMC National Registry.

Sec. 10. Section 76-3207, Revised Statutes Cumulative Supplement, 2016, is

amended to read:

76-3207 (1) ~~A person~~ An appraisal management company applying for issuance of a registration or renewal of a registration in this state shall not:

(a) ~~In whole or in part, directly or indirectly, be owned by any person who has had a credential or equivalent an appraiser license or certificate in this state or in any other state refused, denied, canceled, or revoked or who has surrendered a credential or equivalent in lieu of revocation in any jurisdiction for a substantive cause as determined by the board, or revoked; and~~

(b) ~~Be more than ten percent owned by a person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the appraisal practice or real property appraisal activity, or any crime involving fraud, misrepresentation, or moral turpitude or failed to submit to a criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation.~~

(2) ~~For purposes of subdivision (1)(b) of this section, each individual owner of more than ten percent of an appraisal management company shall, at the time an application for issuance of a registration as an appraisal management company is made, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. The board shall pay the Nebraska State Patrol the costs associated with conducting a fingerprint-based national criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the board.~~

(3) ~~For the purpose of subdivision (1)(a) of this section, a person is not barred from issuance of a registration if the credential or equivalent of the person with an ownership interest was not refused, denied, canceled, revoked, or surrendered in lieu of revocation for a substantive cause as determined by the board and has been reinstated by the jurisdiction in which the action was taken.~~

Sec. 11. Section 76-3208, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3208 (1) ~~An appraisal management company shall not prohibit an AMC appraiser from including within the body of a report that is submitted by the AMC appraiser to the appraisal management company or its assignee the fee agreed upon between the appraisal management company and the AMC appraiser at the time of engagement for the performance of the appraisal.~~

(2) ~~An appraisal management company shall not directly or indirectly engage in or attempt to engage in business as an appraisal management company or advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state under any legal name or trade name not included in the application for issuance of a registration, or renewal of a registration, as approved by the board.~~

(3) ~~An appraisal management company shall not require an AMC appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the appraisal management services provided by the appraisal management company.~~

~~An appraisal management company that applies to the board for a registration to do business in this state as an appraisal management company shall not:~~

(1) ~~Knowingly employ any individual to perform appraisal services who has had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked;~~

(2) ~~Knowingly enter into any independent contractor arrangement to perform appraisal services, whether in verbal, written, or other form, with any individual who has had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked; or~~

(3) ~~Knowingly prohibit an appraiser from including within the body of a report that is submitted by the appraiser to the appraisal management company or its assignee the fee that the appraiser was paid by the appraisal management company for the performance of the report.~~

Sec. 12. Section 76-3210, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3210 ~~Any employee of or independent contractor to an appraisal management company that holds a registration, including any AMC appraiser included on an appraisal management company's appraiser panel engaged in appraisal practice or real property appraisal activity, shall comply with the Real Property Appraiser Act, including the Uniform Standards of Professional Appraisal Practice performs a Uniform Standards of Professional Appraisal Practice standard 3 appraisal review shall be an appraiser with the proper level of licensure in this state. Quality control examinations are exempt from this requirement as they are not considered a standard 3 review.~~

Sec. 13. Section 76-3212, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3212 ~~Each appraisal management company that holds a registration shall maintain seeking to be registered in this state shall certify to the board on a biennial basis that it maintains a detailed record of each appraisal management services provided under its registration, and upon request shall submit to the board all books, records, reports, documents, and other information as deemed~~

~~appropriate by the board to administer and enforce the Nebraska Appraisal Management Company Registration Act service request that it receives and of the appraiser who performs the appraisal services for the appraisal management company. Record retention requirements are for a period of five years after appraisal management services are completed or two years after final disposition of a judicial proceeding related to the real property appraisal management services activity, whichever period expires later.~~

Sec. 14. Section 76-3213, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3213 An appraisal management company that holds a registration may not alter, modify, or otherwise change a completed report submitted by an AMC appraiser without his or her the appraiser's written consent.

Sec. 15. Section 76-3214, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3214 (1) The board shall issue a unique registration number to each appraisal management company that holds a registration ~~is registered in this state.~~

(2) The board shall maintain a published list of the appraisal management companies that hold registrations ~~have registered with the board pursuant to the Nebraska Appraisal Management Company Registration Act and have been issued a registration number pursuant to subsection (1) of this section.~~

(3) An appraisal management company that holds a registration ~~registered in this state~~ shall disclose the registration number provided to it by the board on the engagement documents presented to the AMC appraiser.

Sec. 16. Section 76-3215, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3215 ~~(1) Each appraisal management company that holds a registration registered in this state, except in cases of noncompliance with the conditions of the engagement, shall make payment of fees to an AMC appraiser engaged by the appraisal management company to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions for the completion of an appraisal or valuation assignment within sixty days after the date on which the AMC appraiser transmits or otherwise provides the completed report or valuation assignment to the appraisal management company or its assignee.~~

~~(2) Except within the first ninety days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove the appraiser from the appraiser panel of the appraisal management company or otherwise refuse to assign requests for appraisal services to an appraiser on the appraiser panel without:~~

~~(a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company; and~~

~~(b) Providing an opportunity for the appraiser to respond to the notification from the appraisal management company.~~

~~(3) An appraiser who is removed from the appraiser panel of an appraisal management company may file a complaint with the board for a review of the decision of the appraisal management company. The scope of the board's review in any such case is limited to determining that the appraisal management company has complied with subsection (2) of this section and whether a violation of the Real Property Appraiser Act has occurred.~~

~~(4) If an appraiser files a complaint against an appraisal management company pursuant to subsection (3) of this section, the board shall adjudicate the complaint within one hundred eighty days after the filing of the complaint.~~

~~(5) If, after opportunity for hearing and review, the board determines that an appraisal management company acted improperly in removing the appraiser from the appraiser panel, the board shall:~~

~~(a) Provide written findings to the involved parties;~~

~~(b) Provide an opportunity for the appraisal management company and the appraiser to respond to the findings; and~~

~~(c) Make recommendations for action.~~

Sec. 17. Section 76-3216, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3216 (1) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration or by meeting the requirements as a federally regulated appraisal management company.

(2) Except as provided in section 76-3204, any person who, directly or indirectly for another, offers, attempts, or agrees to perform all actions described in subdivision (5) of section 76-3202 or any action described in subdivision (6) of such section, shall be deemed an appraisal management company within the meaning of the Nebraska Appraisal Management Company Registration Act, and such action shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the act.

(3) The board may issue a cease and desist order against any person who violates this section by performing any action described in subdivision (5) or (6) of section 76-3202 without the appropriate registration. Such order shall be final ten days after issuance unless such person requests a hearing pursuant to section 76-3217. The board may, through the Attorney General, obtain an order from the district court for the enforcement of the cease and desist order.

(4) ~~(1)~~ To the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke ~~its the registration issued to the appraisal management company under the Nebraska Appraisal Management Company Registration Act,~~ or levy fines or impose civil penalties not to exceed five thousand dollars for a first offense and not to exceed ten thousand dollars for a second or subsequent offense, if the board determines that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following:

- (a) A material violation of the act;
- (b) A violation of any rule or regulation adopted and promulgated by the board; or
- (c) Procurement of a registration for itself or any other person by fraud, misrepresentation, or deceit.

(5) ~~(2)~~ In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board shall endeavor to impose fines or civil penalties that are reasonable in light of the nature, extent, and severity of the violation. The board shall also take action against an appraisal management company's registration only after less severe sanctions have proven insufficient to ensure behavior consistent with the Nebraska Appraisal Management Company Registration Act. When deciding whether to impose a sanction permitted by subsection (4) ~~(1)~~ of this section, determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of the act, the board shall consider whether an appraisal management company:

- (a) Has an effective program reasonably designed to ensure compliance with the act;
- (b) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected violations; and
- (c) Has independently reported to the board any significant violations or potential violations of the act prior to an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of the occurrence of such violations.

(6) Any violation of appraisal-related laws or rules and regulations, and disciplinary action taken against an appraisal management company, shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee.

Sec. 18. Section 76-3217, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-3217 (1) The board shall conduct disciplinary hearings for any violation of the Nebraska Appraisal Management Company Registration Act in accordance with the Administrative Procedure Act.

(2) Before the board may censure, suspend, or revoke the registration of, or levy a fine or civil penalty against, ~~an a registered~~ appraisal management company, the board shall notify the appraisal management company in writing of any charges made under the Nebraska Appraisal Management Company Registration Act at least twenty days prior to the date set for the hearing and shall permit the appraisal management company an opportunity to be heard in person or by counsel. The notice shall be satisfied by personal service on the contact controlling person of the appraisal management company or agent for service of process in this state or by sending the notice by certified mail, return receipt requested, to the address of the contact controlling person of the appraisal management company that is on file with the board.

(3) Any hearing pursuant to this section shall be heard by a hearing officer at a time and place prescribed by the board. The hearing officer may make findings of fact and shall deliver such findings to the board. The board shall take such disciplinary action as it deems appropriate, subject to the limitations contained within section 76-3216. Costs incurred for an administrative hearing, including fees of counsel, the hearing officer, court reporters, investigators, and witnesses, shall be taxed as costs in such action as the board may direct.

Sec. 19. At the request of the board, the Attorney General shall render an opinion with respect to all questions of law arising in connection with the administration of the Nebraska Appraisal Management Company Registration Act and shall act as attorney for the board in all actions and proceedings brought by or against the board under or pursuant to the act. All fees and expenses of the Attorney General arising out of such duties shall be paid out of the Appraisal Management Company Fund. The Attorney General may appoint special counsel to prosecute such action, and all allowed fees and expenses of such counsel shall be taxed as costs in the action as the court may direct.

Sec. 20. Whenever, in the judgment of the board, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of the Nebraska Appraisal Management Company Registration Act, the Attorney General may maintain an action in the name of the State of Nebraska in the district court of the county in which such violation or threatened violation occurred to abate and temporarily and permanently enjoin such acts and practices and to enforce compliance with the act. The Attorney General shall not be required to give any bond nor shall any court costs be adjudged against the Attorney General.

Sec. 21. Original sections 76-2228.02, 76-3201, 76-3202, 76-3203, 76-3204, 76-3205, 76-3206, 76-3207, 76-3208, 76-3210, 76-3212, 76-3213,

76-3214, 76-3215, 76-3216, and 76-3217, Revised Statutes Cumulative Supplement, 2016, are repealed.