

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 139

Introduced by Dungan, 26.

Read first time January 13, 2025

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to real property; to amend sections 76-2239,
2 76-3207, and 76-3216, Revised Statutes Cumulative Supplement, 2024;
3 to change provisions relating to disciplinary actions against
4 credential holders under the Real Property Appraiser Act and
5 restrictions on ownership of appraisal management companies and
6 violations by appraisal management companies under the Nebraska
7 Appraisal Management Company Registration Act; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 76-2239, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 76-2239 (1)(a) (1) The board may, upon its own motion, and shall,
4 upon the written complaint of any aggrieved person, cause an
5 investigation to be made with respect to an alleged violation of the Real
6 Property Appraiser Act. Upon receipt of information indicating a
7 violation of the Real Property Appraiser Act, the board shall make an
8 investigation of the facts to determine if there is evidence of a
9 violation. If technical assistance is required for investigation, the
10 board may contract with or use any qualified person for such technical
11 assistance.

12 (b) The board may revoke or suspend the credential or otherwise
13 discipline a credential holder, revoke or suspend a qualifying or
14 continuing education course or activity, deny any application, ~~or~~ issue a
15 cease and desist order, or enter into a contingent dismissal agreement
16 with remedial measures with a credential holder for any violation of the
17 Real Property Appraiser Act.

18 (c) Any disciplinary action taken against a credentialed real
19 property appraiser, including any action that limits a credentialed real
20 property appraiser's ability to engage in real property appraisal
21 practice, shall be reported to federal authorities as required by Title
22 XI of the Financial Institutions Reform, Recovery, and Enforcement Act of
23 1989. A successfully completed contingent dismissal agreement is not
24 disciplinary action. ~~Upon receipt of information indicating that a person~~
25 ~~may have violated any provision of the Real Property Appraiser Act, the~~
26 ~~board shall make an investigation of the facts to determine whether or~~
27 ~~not there is evidence of a violation. If technical assistance is~~
28 ~~required, the board may contract with or use qualified persons.~~

29 (2)(a) If an investigation indicates that a person may have violated
30 a provision of the act, the board may offer the person an opportunity to
31 voluntarily and informally discuss the alleged violation before the

1 board. The board may enter into consent agreements, ~~or~~ negotiate
2 settlements, or enter into contingent dismissal agreements.

3 (b) If an investigation indicates that a person not holding a
4 credential under the act has violated a provision of the act, the board
5 may issue a cease and desist order or refer the investigation to the
6 appropriate county attorney for the consideration of formal charges.

7 (c) If an investigation indicates that a credential holder has
8 violated a provision of the act, a formal complaint shall be prepared by
9 the board and served upon the credential holder. The complaint shall
10 require the credential holder to file an answer within thirty days of the
11 date of service. In responding to a complaint, the credential holder may
12 admit the allegations of the complaint, deny the allegations of the
13 complaint, or plead otherwise. Failure to make a timely response shall be
14 deemed an admission of the allegations of the complaint. Upon receipt of
15 an answer to the complaint, the director or chairperson of the board
16 shall set a date, time, and place for an administrative hearing on the
17 complaint. The date of the hearing shall not be less than thirty nor more
18 than one hundred twenty days from the date that the answer is filed
19 unless such date is extended for good cause.

20 **Sec. 2.** Section 76-3207, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 76-3207 (1) An appraisal management company ~~A person applying for~~
23 ~~issuance of a registration or renewal of a registration~~ shall not:

24 (a) In whole or in part, directly or indirectly, be owned by any
25 person who has had a real property appraiser credential or equivalent
26 refused, denied, canceled, or revoked or who has surrendered a real
27 property appraiser credential or equivalent in lieu of revocation in any
28 jurisdiction for a substantive cause as determined by the board; and

29 (b) Be more than ten percent owned by a person who is not of good
30 moral character, which for purposes of this section shall require that
31 such person has not been convicted of, or entered a plea of nolo

1 contendere to, a felony relating to the real property appraisal practice
2 or any crime involving fraud, misrepresentation, or moral turpitude or
3 failed to submit to a criminal history record check through the Nebraska
4 State Patrol and the Federal Bureau of Investigation.

5 (2) For purposes of subdivision (1)(b) of this section, each
6 individual owner of more than ten percent of an appraisal management
7 company shall:

8 (a) At the time an application for issuance of a registration is
9 made, submit two copies of legible ink-rolled fingerprint cards or
10 equivalent electronic fingerprint submissions to the board for delivery
11 to the Nebraska State Patrol in a form approved by both the Nebraska
12 State Patrol and the Federal Bureau of Investigation;

13 (b) At the time an application for renewal of a registration is
14 made, submit two copies of legible ink-rolled fingerprint cards or
15 equivalent electronic fingerprint submissions to the board for delivery
16 to the Nebraska State Patrol in a form approved by both the Nebraska
17 State Patrol and the Federal Bureau of Investigation if a fingerprint-
18 based national criminal history records check has not been completed
19 pursuant to subdivision (2)(a) of this section; and

20 (c) At the time an individual owner of more than ten percent of an
21 appraisal management company is identified by the board, submit two
22 copies of legible ink-rolled fingerprint cards or equivalent electronic
23 fingerprint submissions to the board for delivery to the Nebraska State
24 Patrol in a form approved by both the Nebraska State Patrol and the
25 Federal Bureau of Investigation if a fingerprint-based national criminal
26 history records check has not been completed pursuant to subdivision (2)
27 (a) or (2)(b) of this section.

28 (3) The board shall pay the Nebraska State Patrol the costs
29 associated with conducting a fingerprint-based national criminal history
30 record check through the Nebraska State Patrol and the Federal Bureau of
31 Investigation with such record check to be carried out by the board.

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

7 **Sec. 3.** Section 76-3216, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 76-3216 (1) It is unlawful for a person to directly or indirectly
10 engage in or attempt to engage in business as an appraisal management
11 company or to advertise or hold itself out as engaging in or conducting
12 business as an appraisal management company in this state without first
13 obtaining a registration or by meeting the requirements as a federally
14 regulated appraisal management company.

15 (2) Except as provided in section 76-3204, any person who, directly
16 or indirectly for another, offers, attempts, or agrees to perform all
17 actions described in subdivision (6) of section 76-3202 or any action
18 described in subdivision (7) of such section, shall be deemed an
19 appraisal management company within the meaning of the Nebraska Appraisal
20 Management Company Registration Act, and such action shall constitute
21 sufficient contact with this state for the exercise of personal
22 jurisdiction over such person in any action arising out of the act.

23 (3) The board may issue a cease and desist order against any person
24 who violates this section by performing any action described in
25 subdivision (6) or (7) of section 76-3202 without the appropriate
26 registration. Such order shall be final ten days after issuance unless
27 such person requests a hearing pursuant to section 76-3217. The board
28 may, through the Attorney General, obtain an order from the district
29 court for the enforcement of the cease and desist order.

30 (4) To the extent permitted by any applicable federal legislation or
31 regulation, the board may censure an appraisal management company,

1 conditionally or unconditionally suspend or revoke its registration, or
2 levy fines or impose civil penalties not to exceed five thousand dollars
3 for a first offense and not to exceed ten thousand dollars for a second
4 or subsequent offense, or enter into a contingent dismissal agreement
5 with remedial measures with an appraisal management company, if the board
6 determines that an appraisal management company is attempting to perform,
7 has performed, or has attempted to perform any of the following:

8 (a) A material violation of the act;

9 (b) A violation of any rule or regulation adopted and promulgated by
10 the board; or

11 (c) Procurement of a registration for itself or any other person by
12 fraud, misrepresentation, or deceit.

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

26 (a) Has an effective program reasonably designed to ensure
27 compliance with the act;

28 (b) Has taken prompt and appropriate steps to correct and prevent
29 the recurrence of any detected violations; and

30 (c) Has independently reported to the board any significant
31 violations or potential violations of the act prior to an imminent threat

1 of disclosure or investigation and within a reasonably prompt time after
2 becoming aware of the occurrence of such violations.

3 (6) Any violation of appraisal-related laws or rules and
4 regulations, and disciplinary action taken against an appraisal
5 management company, shall be reported to the Appraisal Subcommittee as
6 required by Title XI of the Financial Institutions Reform, Recovery, and
7 Enforcement Act of 1989, the AMC rule, and any policy or rule established
8 by the Appraisal Subcommittee. A successfully completed contingent
9 dismissal agreement is not disciplinary action.

10 **Sec. 4.** Original sections 76-2239, 76-3207, and 76-3216, Revised
11 Statutes Cumulative Supplement, 2024, are repealed.