

March 19, 2009

H 716. REGULATION OF APPRAISAL MANAGEMENT COMPANIES. Filed 3/19/09. TO REGULATE REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

Enacts a new Article 2, Real Estate Appraisal Management Companies, in GS Chapter 93E to prohibit, beginning January 1, 2010, any person in the state, without first registering with the North Carolina Appraisal Board (Board), from (1) acting as a real estate appraisal management company, (2) directly or indirectly engaging or assuming to engage in the business of real estate appraisal management, (3) advertising or holding himself or herself out as engaging in the business of real estate appraisal management, or (4) performing any acts listed in this section. Creates specific exemptions. Defines *act as a real estate appraisal management company* as acting for or with the expectation of compensation or gain, either directly or indirectly, by (1) accepting or offering to accept an appraisal assignment, (2) soliciting or offering to solicit an appraisal assignment, or (3) employing or contracting with a licensed or certified real estate appraiser to prepare an appraisal assignment on behalf of a client, whether acting through contact by telephone, electronic means, mail, or in person. Also defines *appraisal management company, employee, person, and registrant*. Provides that definitions in GS 93E-1-4 also apply to this Article. Provides for the rule-making authority of the Board.

Requires any person desiring to be registered as an appraisal management company make written application to the Board on forms prescribed by the Board setting forth the applicant's qualifications, accompanied by a \$5,000 fee. Upon a finding by the Board that the applicant is of good moral character, the Board must issue a certificate of registration. Sets forth conditions for out of state applicants. Requires that (1) any registrant having good faith belief that a licensed real estate appraiser has violated applicable law or the Uniform Standards of Professional Appraisal Practice, or engaged in unethical conduct, promptly file a complaint with the Board and (2) fees be paid to appraisers based on Federal Deposit Insurance Corporation protocol within 30 days of the date of transmission of the appraisal to the registrant or the registrant's client. Fees must be paid directly to the appraiser from the lender. Requires designation of a managing principal who is a certified general real estate appraiser under Article 1 of this Chapter, with notification to the Board regarding any change of managing principal.

Provides that a registration expires June 30 of each year and becomes invalid unless, before that date, a renewal application is filed with the Board accompanied by a \$2,500 fee. Allows for a \$20 a month late filing fee, not to exceed \$120. After a six-month lapse in registration, the registrant must file a new application. Provides that the Board may issue a replacement registration for a \$50 fee and certify a registration history for a \$100 fee.

Prohibits any employee, director, officer, or agent of an appraisal management company or any other third party acting as a joint venture partner or independent contractor from influencing or attempting to influence the development, reporting, result, or review of a real estate appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner, including listed specific prohibited acts. Clarifies that the statute does not prohibit a request that a real estate appraiser (1) consider additional appropriate property information; (2) provide further detail, substantiation, or explanation for the real estate appraiser's value conclusion; or (3) correct errors in the real estate appraisal report.

Provides for broad disciplinary powers of the Board, which includes (1) assigning a fine of up to \$10,000 for each violation of this Article; (2) assigning a fine of up to \$25,000 for each violation of an order by the Board to cease a prohibited action; (3) investigating or examining books, accounts, records, and files of a registrant related to a matter under investigation; (4) requiring a criminal history record check or a set of fingerprints; (5) issuing subpoenas requiring the attendance of persons and the production of documents in any hearing, investigation, inquiry, or other proceeding conducted by the Board; and (6) conducting routine examinations of the registrant's books and records to determine compliance with this Article. Sets forth procedures related to maintenance of records by the Board and the registrant and for conducting criminal history record checks of applicant's or registrants. Makes violations of the provisions of this Article a Class I felony.

Enacts new GS 114-19.26 to allow the Department of Justice (DOJ) to provide the Board, from the State and National Repositories of Criminal Histories, a criminal history of any registrant or applicant, upon the Board's submission of fingerprints, the registrant or applicant's consent

form, and any other required identifying information. Requires the Board to keep all information confidential. Allows the Board to charge a fee to offset the actual costs incurred by DOJ. Establishes further requirements for the criminal history record checks of applicants or registrants for registration as appraisal management companies in new GS 93E-2-11.

Provides that a real estate appraisal management company established under federal law is not required to pay the initial registration fee, but is required to pay registration fees associated with subsequent renewals of registration.

Intro. by Allen, Howard, Blue, Brubaker.

GS 93E, 114