



SENATE BILL 829: Regulation of Appraisal Management Companies

2009-2010 General Assembly

Committee:	House Commerce, Small Business, and Entrepreneurship, if favorable, Finance	Date:	June 2, 2010
Introduced by:	Sen. Jenkins	Prepared by:	Karen Cochrane-Brown
Analysis of:	PCS to Third Edition S829-CSROf-109		Committee Counsel

SUMMARY: *The PCS to Senate Bill 829 amends the Real Estate Appraisers Act to regulate appraisal management companies.*

[As introduced, this bill was identical to H716, as introduced by Reps. Allen, Howard, Blue, Brubaker, which is currently in House Commerce, Small Business, and Entrepreneurship, if favorable, Judiciary II, if favorable, Finance.]

BILL ANALYSIS: Senate Bill 829 creates a new Article 2 in Chapter 93E to regulate real estate appraisal management companies. The bill requires that beginning January 1, 2011, any person or business entity that acts as an appraisal management company must register with the North Carolina Appraisal Board. An appraisal management company is defined as any business entity that utilizes an appraisal panel and performs appraisal management services. An appraisal panel is a network of licensed or certified appraisers who are independent contractors to the appraisal management company. Appraisal management services include:

- Administering an appraisal panel;
- Recruiting and verifying licenses for potential members of the appraisal panel;
- Negotiating fee and service expectations with appraisers;
- Receiving orders for appraisals from clients and delivering them to appraisers on the panel;
- Taking and determining status of appraisal orders;
- Conducting quality control of completed appraisals; and
- Providing completed appraisals to clients.

The definition of an appraisal management company does not include any government agency, an appraiser who enters an agreement with another appraiser to perform an appraisal and the completed appraisal report is signed by both appraisers, any chartered financial institution, a real estate broker, an officer or employee of an exempt entity acting within the scope of employment, or an attorney or personal representative who orders an appraisal on behalf of a client.

The Appraisal Board is authorized to adopt rule to implement the act and to determine the qualifications of applicants for registration. The applicant must be of good moral character, submit an application and fee, and make a number of certifications about its operating procedure, including that the registrant has a system:

- To verify that appraisers on its panel are North Carolina licensed appraisers in good standing;
- Requiring appraisers to provide information about their geographic and other relevant competencies;

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- To review the work of all independent appraisers to validate that appraisals are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice.
- To maintain detailed records of each service request and the appraiser that performs the appraisal.

Any registrant who believes that an appraiser has violated the law or the Uniform Standards must file a complaint with the Board.

Appraisal management companies must pay fees to an appraiser within 30 days of receiving the appraisal, unless the appraisal does not comply with the conditions of the engagement. In this case, the appraiser must be notified in writing that the fees will not be paid.

Each appraisal management company must designate a compliance manager who must be a certified real estate appraiser under the laws of North Carolina or the comparable laws of another state. The appraisal management company must identify the compliance manager to the Board. Failure to comply with this provision results in registration suspension.

The Appraisal Board is authorized to establish a registration fee, not to exceed \$3,500, and a renewal fee, not to exceed \$2,000. In addition, the Board is authorized to charge the following fees:

- Late fee \$20./month up to \$120.
- Replacement fee \$50.
- Registration history \$100.

No officer, agent, or employee of an appraisal management company shall influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner. The bill lists a number of specific prohibited acts. However, this section does not prohibit an appraisal management company from requesting the appraiser to consider additional information, provide further details through an established dispute process, or correct errors.

The Board has authority to deny, suspend, revoke, or refuse to issue or renew a registration, or restrict or limit activities of a person who owns or participates in the business if it finds that the company or any of its principals or employees has violated any of the provisions of the Act. The Board may also impose a civil penalty not to exceed \$10,000 for any violation of the Act and to impose a penalty of up to \$25,000 for failure to comply with an order to cease from a prohibited action.

Any person violating the act shall be guilty of a Class 1 misdemeanor. The Board may also seek injunctive relief.

The Board may require applicants or registrants to consent to a criminal history record check. Refusal to consent may be grounds for denial of the registration. If the record check reveals one or more convictions, the Board is not required to automatically bar registration, but may consider a number of factors to determine whether the criminal history disqualifies the applicant or registrant. The Board is granted immunity from civil liability for denying registration based on the criminal history record check, provided it acted in good faith.

Section 2 of the bill authorizes the Department of Justice to provide criminal histories to the Appraisal Board and allows the Department to charge a fee to offset the cost of conducting the record check.

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Section 3 amends the law which creates the North Carolina Appraisal Board and designates the appointment of its members. The bill directs the Governor to use one of her five appointments to appoint a person representing either the appraisal management industry or the banking industry.

EFFECTIVE DATE: The provision authorizing the Appraisal Board to adopt rules to implement the act becomes effective when it becomes law. The remainder of the act becomes effective January 1, 2011.

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