


Chairman Phil Mendelson

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require the Department of Insurance, Securities, and Banking to provide for the licensing of certain entities providing appraisal management services in the District of Columbia and to require an annual registration fee to be paid by those entities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Appraisal Management Company Regulation Act of 2019”.

TITLE I. APPRAISAL MANAGEMENT COMPANY REGULATIONS

Sec. 101. Definitions.

For purposes of this act, the term:

“(1) “Affiliate” means any company that controls, is controlled by, or is under common control of another company.

“(2) “AMC National Registry” means the registry of state-registered appraisal management companies and federally regulated appraisal management companies maintained by the Appraisal Subcommittee.

“(3) “Appraisal Foundation” means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

32 “(4) “Appraisal management company” means a person, not including a
33 department or division of an entity that provides appraisal management services only to that
34 entity, that:

35 “(A)(i) Provides appraisal management services to creditors or to
36 secondary mortgage market participants, including affiliates; or

37 “(ii) Provides appraisal management services in connection with
38 valuing a consumer's principal dwelling as security for a consumer credit transaction or
39 incorporating such transactions into securitizations; and

40 “(B) At any time in a 12-calendar month period oversees an appraiser
41 panel of more than 15 state-certified or state-licensed appraisers in a state or 25 or more state-
42 certified or state-licensed appraisers in 2 or more states, as described in section 103.

43 “(5) “Appraisal management services” means one or more of the following:

44 “(A) Recruiting, selecting, and retaining appraisers;

45 “(B) Contracting with state-certified or state-licensed appraisers to
46 perform appraisal assignments;

47 “(C) Managing the process of having an appraisal performed, including
48 providing administrative services such as receiving appraisal orders and appraisal reports,
49 submitting completed appraisal reports to creditors and secondary market participants, collecting
50 fees from creditors and secondary market participants for services provided, and paying
51 appraisers for services performed; and

52 “(D) Reviewing and verifying the work of appraisers.

53 “(6) “Appraisal panel” means a network, list, or roster of licensed or certified
54 appraisers approved by an appraisal management company to perform appraisals as independent
55 contractors for the appraisal management company. Appraisers on an appraiser panel include
56 both appraisers accepted by the appraisal management company for consideration for future
57 appraisal assignments in covered transactions or for secondary mortgage market participants in
58 connection with covered transactions, and appraisers engaged by the appraisal management
59 company to perform one or more appraisals in covered transactions or for secondary mortgage
60 market participants in connection with covered transactions. An appraiser is an independent
61 contractor if the appraiser is treated as an independent contractor by the appraisal management
62 company for purposes of federal income taxation.

63 “(7) “Appraisal review” means the act or process of developing and
64 communicating an opinion about the quality of another appraiser's work that was performed as
65 part of an appraisal assignment and is related to the appraiser's data collection, analysis,
66 opinions, conclusions, estimate of value, or compliance with the uniform standards of
67 professional appraisal practice. This term does not include:

68 “(A) A general examination for grammatical, typographical, or other
69 similar errors;

70 “(B) A general examination for completeness, including regulatory and/or
71 client requirements as specified in the agreement process that does not communicate an opinion
72 of value.

73 “(8) “Appraisal Subcommittee” means the Appraisal Subcommittee of the Federal
74 Financial Institutions Examination Council.

75 “(9) “Consumer credit” means credit offered or extended to a consumer primarily
76 for personal, family, or household purposes.

77 “(10) “Controlling person” means:

78 “(A) An officer, director, or owner of greater than a 10 percent interest of
79 a corporation, partnership, or other business entity seeking to act as an appraisal management
80 company;

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

85 “(C) An individual who possesses, directly or indirectly, the power to
86 direct or cause the direction of the management of policies of an appraisal management
87 company.

88 “(11) “Covered transaction” means any consumer credit transaction secured by
89 the consumer's principal dwelling.

90 “(12) “Creditor” means a person who regularly extends consumer credit that is
91 subject to a finance charge or is payable by written agreement in more than four installments (not
92 including a down payment), and to whom the obligation is initially payable, either on the face of
93 the note or contract, or by agreement when there is no note or contract. A person regularly
94 extends consumer credit if, in any 12-month period, the person originates more than one credit
95 extension for transactions secured by a dwelling.

96 “(13) “Department” means the Department of Insurance, Securities, and Banking.

97 “(14) “District” means the District of Columbia.

98 “(15) “Dwelling” means a residential structure that contains one to four units,
99 regardless of whether that structure is attached to real property. The term includes an individual
100 condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

101 “(16) “Federal financial institutions regulatory agency” includes the Consumer
102 Financial Protection Bureau, the Federal Housing Finance Agency, the Board of Governors of
103 the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the
104 Comptroller of the Currency, and the National Credit Union Administration.

105 “(17) “Federally regulated appraisal management company” means an appraisal
106 management company that is owned and controlled by an insured depository institution, as
107 defined in section 3(c)(2) of the Federal Deposit Insurance Act, approved September 21, 1950
108 (64 Stat. 873; 12 U.S.C. § 1813(c)(2)), and regulated by the Office of the Comptroller of the
109 Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit
110 Insurance Corporation, or National Credit Union Administration.

111 “(18) “Federally regulated transaction regulations” means regulations established
112 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve
113 System, the Federal Deposit Insurance Corporation, or the National Credit Union
114 Administration, pursuant to sections 1112, 1113, and 1114 of the Financial Institutions Reform,
115 Recovery, and Enforcement Act of 1989, approved August 9, 1989 (103 Stat. 183; 12 U.S.C. §§
116 3341-3343).

117 “(19) “Federally related transaction” means any real-estate-related financial
118 transaction that involves an insured depository institution regulated by the Office of the

119 Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal
120 Deposit Insurance Corporation, or National Credit Union Administration and that requires the
121 services of an appraiser under the interagency appraisal rules.

122 “(20) “Person” means a natural person or an organization, including a
123 corporation, partnership, proprietorship, association, cooperative, estate, trust, or government
124 unit.

125 “(21) “Principal dwelling” means the primary residence of a consumer. For
126 purposes of this act, a consumer may only have one principal dwelling. A vacation or other
127 second home shall not be considered a principal dwelling. However, if a consumer buys or
128 builds a new dwelling that will become the consumer’s primary residence within a year or upon
129 completion of the construction, the new residence is considered the principal dwelling for
130 purposes of this act.

131 “(22) “Real-estate-related financial transaction” means any transaction involving
132 the sale, lease, purchase, investment in, or exchange of real property, including interests in
133 property or the financing thereof; the refinancing of real property or interests in real property; or
134 the use of real property or interests in property as security for a loan or investment, including
135 mortgage-backed securities.

136 “(23) “Secondary mortgage market participant” means a guarantor or insurer of
137 mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. The term
138 includes an individual investor in a mortgage-backed security only if that investor also serves in
139 the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

140 “(24) “State” includes the District of Columbia.

141 “(25) “Uniform Standards of Professional Appraisal Practice” or “USPAP” means
142 the appraisal standards as promulgated by the Appraisal Standards Board of the Appraisal
143 Foundation.

144 Sec. 102. Administration.

145 “(a) The Department shall have the authority to adopt rules that are reasonably necessary
146 to establish an appraisal management company licensing program and implement, administer,
147 and enforce the provisions set forth under this act.

148 “(b) The Department shall charge appraisal management companies operating in the
149 District reasonable fees to administer this act. The Department's fees shall be established by
150 rule.

151 “(c) The Department shall perform the following functions:

152 “(1) Review and approve or deny an appraisal management company’s
153 application for initial registration in the District;

154 “(2) Periodically review and renew or review and deny an appraisal management
155 company’s registration;

156 “(3) Examine the books and records of an appraisal management company
157 operating in the District and require the appraisal management company to submit reports,
158 information, and documents;

159 “(4) Verify that the appraisers on the appraiser panel of an appraisal management
160 company operating in the District hold valid District certifications or licenses, as applicable;

161 “(5) Conduct investigations of appraisal management companies operating in the
162 District to assess potential violations of applicable appraisal-related laws, regulations, or orders;
163 and

164 “(6) Report an appraisal management company's violation of applicable appraisal-
165 related laws, regulations, or orders, as well as disciplinary and enforcement actions and other
166 relevant information about the operations of an appraisal management company operating in the
167 District.

168 “(d) The Department shall impose requirements on appraisal management companies
169 operating in the District that are not owned and controlled by an insured depository institution
170 and not regulated by a federal financial institutions regulatory agency to:

171 “(1) Register with and be subject to supervision by the Department;

172 “(2) Engage only state-certified or state-licensed appraisers for federally related
173 transactions in conformity with any federally regulated transaction regulations;

174 “(3) Establish and comply with processes and controls reasonably designed to
175 ensure that the appraisal management company, in engaging an appraiser, selects an appraiser
176 who is independent of the transaction and who has the requisite education, expertise, and
177 experience necessary to competently complete the appraisal assignment for the particular market
178 and property type;

179 “(4) Direct appraisers to perform assignments in accordance with Uniform
180 Standards of Professional Appraisal Practices; and

181 “(5) Establish and comply with processes and controls reasonably designed to
182 ensure that the appraisal management company conducts its appraisal management services in

183 accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act, approved
184 July 21, 2010 (124 Stat. 2187; 15 U.S.C. § 1639e(a)-(i)), and regulations thereunder.

185 “(e) The Department shall maintain a list of the appraisal management companies that are
186 registered in the District.

187 “(f) The Department shall issue a unique registration number to each appraisal
188 management company that is registered in the District pursuant to regulations or guidance
189 promulgated by the Department.

190 “(g) The Department shall require an appraisal management company registered in the
191 District to place its registration number on engagement documents utilized by the appraisal
192 management company to procure appraisal services in the District.

193 Sec. 103. Appraisal panel size and calculation.

194 “(a) For purposes of determining whether a person is an appraisal management company
195 within the meaning of section 101(4), an appraiser is deemed part of an appraiser panel as of the
196 earliest date on which the person overseeing the appraisal panel:

197 “(1) Accepts the appraiser for consideration for future appraisal assignments in
198 covered transactions or for secondary mortgage market participants in connection with covered
199 transactions; or

200 “(2) Engages the appraiser to perform one or more appraisals on behalf of a
201 creditor for covered transactions or secondary mortgage market participant in connection with
202 covered transactions.

203 “(b) An appraiser who is deemed part of an appraiser panel pursuant to

204 subsection (a) of this section is deemed to remain on the panel until the date on which the person
205 overseeing the appraisal panel:

206 “(1) Sends written notice to the appraiser removing the appraiser from the
207 appraiser panel, with an explanation of its action; or

208 “(2) Receives written notice from the appraiser asking to be removed from the
209 appraiser panel or notice of the death or incapacity of the appraiser.

210 “(c) If an appraiser is removed from an appraiser panel pursuant to subsection (b)(2) of
211 this section, but the person overseeing the appraisal panel subsequently accepts the appraiser for
212 consideration for future assignments or engages the appraiser at any time during the 12 months
213 after the appraiser’s removal, the removal will be deemed not to have occurred, and the appraiser
214 will be deemed to have been part of the appraiser panel without interruption.

215 Sec. 104. Registration.

216 “(a) It shall be unlawful for a person to directly or indirectly engage or to attempt to
217 engage in business as an appraisal management company in the District, or to advertise or hold
218 itself out as engaging in or conducting business as an appraisal management company in the
219 District without first obtaining a registration issued by the Department.

220 “(b) An applicant for registration as an appraisal management company in the District
221 shall submit to the Department an application on forms prescribed by the Department and pay a
222 fee established by the Department. The forms shall require information necessary to determine
223 eligibility for registration.

224 “(c) Upon registration of an appraisal management company in the District, the
225 Department may require a surety bond of not more than \$25,000.

226 Sec. 105. Reporting requirements.

227 “(a) The Department shall collect from each appraisal management company registered
228 or seeking to be registered in the District the information and fees that the Department requires to
229 be submitted to it pursuant to regulations or guidance promulgated by the Department.

230 “(b) A federally regulated appraisal management company operating in the District must
231 report to the Department the information required to be submitted by the District to the Appraisal
232 Subcommittee, pursuant to the Appraisal Subcommittee’s policies regarding the determination of
233 the appraisal management company National Registry fee. These reporting requirements will be
234 set forth by the Department by rule, and will include:

235 “(1) A report to the Department on a form prescribed by the Department of intent
236 to operate in the District of Columbia;

237 “(2) Information related to whether the appraisal management company is owned
238 in whole or in part, directly or indirectly, by any person who has had an appraiser license or
239 certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state for
240 a substantive cause, as determined by the Appraisal Subcommittee; and

241 “(3) If such a person has had such action taken on his or her appraisal license,
242 information related to whether the license was revoked for a substantive cause and whether it has
243 been reinstated by the state or states in which the appraiser was licensed or certified.

244 Sec. 106. Appraisal management company requirements.

245 “(a) An appraisal management company operating in the District shall meet the following
246 requirements at all times:

247 “(1) At the time of applying for registration or renewing registration in the
248 District, the appraisal management company shall designate one of its controlling persons to
249 serve as the main contact for all communication between the Department and the company. The
250 designated controlling person shall:

251 “(A) Remain in good standing in the District and in any other state that has
252 issued the controlling person an appraiser license or certification; however, nothing in this act
253 shall require that a designated controlling person hold or continue to hold an appraiser license or
254 certification in any jurisdiction;

255 “(B) Never have had an appraiser license or certification in the District or
256 any other state refused, denied, canceled, revoked or surrendered in lieu of a pending disciplinary
257 proceeding in any jurisdiction and not subsequently reinstated or granted;

258 “(C) Be of good moral character;

259 “(2) Before or at the time of placing an assignment to appraise real property in the
260 District with an appraiser on the appraiser panel of the appraisal management company, the
261 appraisal management company shall verify that the appraiser receiving the assignment holds an
262 appraiser license or certification in good standing in the District;

263 “(3) Any employee of or independent contractor to the appraisal management
264 company who performs an appraisal review for a property located in the District must be a
265 certified or licensed appraiser in good standing in the District; and

266 “(4) An appraisal management company registered in the District shall place its
267 registration number on engagement documents utilized by the appraisal management company to
268 procure appraisal services in the District of Columbia.

269 “(b) An appraisal management company that has a reasonable basis to believe an
270 appraiser has materially failed to comply with applicable laws or rules or has materially
271 violated the USPAP shall refer the matter to the Department in conformance with applicable
272 federal laws and regulations.

273 Sec. 107. Verification of licensure or certification.

274 “(a) An appraisal management company registered in the District may not enter into any
275 contract or agreement with an appraiser for the performance of appraisals in the District unless
276 the company verifies that the appraiser is licensed or certified in good standing in the District.

277 “(b) An appraisal management company seeking to be registered to renew a
278 registration in the District shall certify to the Department on a form prescribed by the
279 Department that the company has a system and process in place to verify that an individual being
280 added to the appraiser panel of the company for appraisal services holds an appraiser license or
281 certification in good standing in the District.

282 Sec. 108. Retention of records.

283 “(a) Each appraisal management company seeking to be registered or to renew an
284 existing registration in the District shall certify to the Department on a form prescribed by the
285 Department that the company maintains a detailed record of each service request that the
286 company receives for appraisals of real property located in the District.

287 “(b) An appraisal management company registered in the District shall retain all records
288 required to be maintained under this act for at least 5 years after the file is submitted to the
289 appraisal management company or for at least 2 years after final disposition of any related

290 judicial proceeding of which the appraisal management company is provided notice, whichever
291 period expires later.

292 “(c) All records required to be maintained by the registered appraisal management
293 company shall be made available for inspection by the Department on reasonable notice to the
294 appraisal management company.

295 Sec. 109. Payment to appraisers.

296 “(a) An appraisal management company shall, except in bona fide cases of breach of
297 contract or substandard performance of services, make payment to an independent appraiser for
298 the completion of an appraisal or valuation assignment no later than 45 days after the date on
299 which the appraiser transmits or otherwise provides the completed appraisal or valuation
300 assignment to the company or its assignee unless a mutually agreed-upon alternate arrangement
301 previously has been established.

302 “(b) An appraisal management company seeking to be registered or to renew an existing
303 registration in the District shall certify that the company will require appraisals to be conducted
304 independently as required by the appraisal independence standards under section 129E of the
305 Truth in Lending Act, approved July 21, 2010 (124 Stat. 2187; 15 U.S.C. § 1639e), including the
306 requirement that a customary and reasonable fee be paid to an independent appraiser who
307 completes an appraisal in connection with a consumer credit transaction secured by a principal
308 dwelling.

309 Sec. 110. Prohibited conduct.

310 “A violation of this section may constitute grounds for discipline against an appraisal

311 management company registered in the District. However, nothing in this act shall prevent an
312 appraisal management company from requesting that an appraiser provide additional information
313 about the basis for a valuation, correct objective factual errors in an appraisal report, or consider
314 additional appropriate property information. No employee, director, officer, agent, independent
315 contractor, or other third party acting on behalf of an appraisal management company may do
316 any of the following:

317 “(a) Procure or attempt to procure a registration or renewal by knowingly making a
318 false statement, submitting false information or refusing to provide complete information in
319 response to a question in an application for registration or renewal;

320 “(b) Willfully violate this act or rules of the Department pertaining to this act;

321 “(c) Improperly influence or attempt to improperly influence the development,
322 reporting, result, or review of an appraisal through intimidation, coercion, extortion, bribery, or
323 any other manner, including:

324 “(1) Withholding payment for appraisal services;

325 “(2) Threatening to exclude an appraiser from future work or threatening to
326 demote or terminate the appraiser in order to improperly obtain a desired result;

327 “(3) Conditioning payment of an appraisal fee upon the opinion, conclusion, or
328 valuation to be reached by the appraiser; or

329 “(4) Requesting that an appraiser report a predetermined opinion, conclusion, or
330 valuation, or the desired valuation of any person or entity;

331 “(d) Alter, amend, or change an appraisal report submitted by an appraiser without the
332 appraiser's knowledge and written consent;

333 “(e) Except within the first 90 days after an independent appraiser is added to
334 an appraiser panel, remove an independent appraiser from an appraiser panel without prior
335 written notice to the appraiser, with the prior written notice including evidence of the following,
336 if applicable:

337 “(1) The appraiser's illegal conduct;

338 “(2) A violation of USPAP, this act, or the rules adopted by the Department
339 pursuant to this act;

340 “(3) Improper or unprofessional conduct; or

341 “(4) Substandard performance or other substantive deficiencies;

342 “(f) Require an appraiser to sign any indemnification agreement that would require the
343 appraiser to defend and hold harmless the appraisal management company or any of its agents
344 or employees for any liability, damage, losses, or claims arising out of the services performed
345 by the appraisal management company' or its agents, employees, or independent contractors and
346 not the services performed by the appraiser;

347 “(g) Prohibit lawful communications between the appraiser and any other person whom
348 the appraiser, in the appraiser's professional judgment, believes possesses information that
349 would be relevant;

350 “(h) Fail to timely respond to any subpoena or any other request for information;

351 “(i) Fail to timely obey an administrative order of the Department; or

352 “(j) Fail to fully cooperate in any investigation.

353 Sec. 111. Disciplinary proceedings.

354 “The Department may deny, suspend, or revoke the registration of an appraisal
355 management company; impose a monetary penalty of an amount not to exceed \$5,000 per
356 violation; issue a letter of reprimand; refuse to issue or renew the registration of an appraisal
357 management company; or take other disciplinary action against an appraisal management
358 company when an appraisal management company engages in conduct prohibited under section
359 110.

360 Sec. 112. Criminal history checks.

361 “The Department shall require any controlling person or persons to submit to a criminal
362 history record check. All costs associated with obtaining a background check are the
363 responsibility of the appraisal management company.”.

364 **TITLE II. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.**

365 Sec. 201. Fiscal impact statement.

366 The Council adopts the fiscal impact statement of the Budget Director as the fiscal
367 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
368 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

369 Sec. 202. Effective date.

370 This act shall take effect following approval by the Mayor (or in the event of a veto by
371 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
372 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
373 24, 1973 (87 Stat. 813; D.C. Official Code § 1.206.02(c)(1)), and publication in the District of
374 Columbia Register.