

HOUSE BILL NO. 106

INTRODUCED BY T. JACOBSON

BY REQUEST OF THE BOARD OF REAL ESTATE APPRAISERS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REGULATIONS BY THE BOARD OF REAL ESTATE  
6 APPRAISERS RELATED TO APPRAISAL MANAGEMENT COMPANIES; PROVIDING FOR REGISTRATION  
7 AND OVERSIGHT OF APPRAISAL MANAGEMENT COMPANIES AND COLLECTION AND TRANSMISSION  
8 OF FEES; REVISING THE DESCRIPTION OF APPRAISAL MANAGEMENT COMPANY OWNERSHIP;  
9 ALLOWING DENIAL OR CANCELLATION OF APPRAISAL MANAGEMENT COMPANY REGISTRATION IF  
10 ANY OWNER HAS HAD A LICENSE, CERTIFICATE, OR REGISTRATION DENIED OR REVOKED;  
11 PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 37-54-102, 37-54-105,  
12 37-54-112, 37-54-503, AND 37-54-511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
13 TERMINATION DATE."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16  
17 **SECTION 1. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

18 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
19 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
20 need for a biennial legislative appropriation or budget amendment.

21 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
22 of the following provisions:

23 (a) The law containing the statutory authority must be listed in subsection (3).

24 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory  
25 appropriation is made as provided in this section.

26 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
27 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;  
28 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;  
29 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;  
30 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;

1 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617;  
2 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301;  
3 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; section 2; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101;  
4 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;  
5 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222;  
6 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;  
7 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

8 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
9 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
10 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
11 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
12 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
13 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
14 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded  
15 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and  
16 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.  
17 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under  
18 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion  
19 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004  
20 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,  
21 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;  
22 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;  
23 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.  
24 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.  
25 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,  
26 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of  
27 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of  
28 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
29 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates  
30 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December

1 31, 2023.)"

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3 NEW SECTION. SECTION 2. REGISTRY FEES -- STATUTORY APPROPRIATION. REGISTRY FEES COLLECTED  
 4 UNDER 37-54-105(12) ARE SEPARATE FROM REGISTRATION FEES PROVIDED FOR ELSEWHERE IN THIS PART. REGISTRY  
 5 FEES ARE STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE DEPARTMENT TO TRANSMIT TO THE APPRAISAL  
 6 SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

7

8 **Section 3.** Section 37-54-102, MCA, is amended to read:

9 **"37-54-102. Definitions.** Terms commonly used in appraisal practice and as used in this chapter must  
 10 be defined according to the uniform standards of professional appraisal practice, as issued by the appraisal  
 11 foundation. As used in this chapter, unless the context requires otherwise, the following definitions apply:

12 (1) "Appraisal" means the practice of developing an opinion of the value of real property in conformance  
 13 with the uniform standards of professional appraisal practice as developed by the appraisal foundation.

14 (2) "Appraisal foundation" means the appraisal foundation incorporated as ~~an Illinois~~ a not-for-profit  
 15 corporation on November 30, 1987, pursuant to Title XI of the Financial Institutions Reform, Recovery, and  
 16 Enforcement Act of 1989, 12 U.S.C. 3310, et seq. The purposes of the appraisal foundation are to:

17 (a) establish and improve uniform appraisal standards by defining, issuing, and promoting those  
 18 standards;

19 (b) establish appropriate criteria for the licensure and certification of qualified appraisers by defining,  
 20 issuing, and promoting qualification criteria and disseminate the qualification criteria to states and other  
 21 governmental entities; and

22 (c) develop or assist in the development of appropriate examinations for qualified appraisers.

23 (3) "Appraisal management company" means, in connection with valuation of properties collateralizing  
 24 mortgage loans or mortgages incorporated into a securitization, an external third party, authorized either by a  
 25 creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or  
 26 other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified  
 27 or licensed appraisers in this state or 25 or more nationally within a given year.

28 (4) "Appraisal management services" means the direct or indirect performance of any of the following  
 29 functions on behalf of a lender, financial institution, client, or other person in conjunction with a consumer credit  
 30 transaction that is secured by a consumer's principal dwelling:

- 1 (a) administering an appraiser panel;
- 2 (b) recruiting, retaining, or selecting appraisers to be part of an appraisal panel;
- 3 (c) qualifying and verifying licensing or certification, negotiating fees, and verifying service level  
4 expectations with appraisers who are part of an appraiser panel;
- 5 (d) contracting with appraisers from the appraiser panel to perform appraisal assignments;
- 6 (e) receiving an order for an appraisal assignment from one person and delivering the order for the  
7 appraisal assignment to an appraiser who is part of an appraiser panel for completion;
- 8 (f) managing the process of having an appraisal assignment performed, including performing  
9 administrative duties such as receiving appraisal assignment orders and reports, submitting completed appraisal  
10 reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and  
11 reimbursing appraisers for services performed;
- 12 (g) tracking and determining the status of orders for appraisal assignments;
- 13 (h) conducting quality control examinations of a completed appraisal assignment prior to the delivery of  
14 the appraisal report to a client who ordered the appraisal assignment; and
- 15 (i) providing a completed appraisal report performed by an appraiser to one or more clients.
- 16 (5) (a) "Appraisal review" means the act or process of developing and communicating an opinion about  
17 the quality of another appraiser's work that was performed as part of an appraisal assignment.
- 18 (b) The term does not include a quality control examination.
- 19 (6) "Appraiser" means an individual who holds a license or certification to complete an appraisal  
20 assignment in the state where the real property that is the subject of the appraisal assignment is located.
- 21 (7) "Appraiser panel" means a network of licensed or certified appraisers who are independent  
22 contractors with respect to an appraisal management company and who have:
- 23 (a) responded to an invitation, request, or solicitation from an appraisal management company to:
- 24 (i) perform an appraisal assignment for a client that has ordered an appraisal assignment through the  
25 appraisal management company; or
- 26 (ii) perform appraisal assignments for the appraisal management company directly ~~on a periodic basis~~  
27 as requested and assigned by the appraisal management company; and
- 28 (b) been selected and approved by an appraisal management company to perform appraisal  
29 assignments for any client of the company that has ordered an appraisal assignment through the company or to  
30 perform appraisal assignments for the appraisal management company directly on a periodic basis as assigned

1 by the appraisal management company.

2 (8) "Board" means the board of real estate appraisers provided for in 2-15-1758.

3 (9) "Certified real estate appraiser" means a person who develops and communicates real estate  
4 appraisals and who has a valid real estate appraisal certificate issued under 37-54-305.

5 (10) "Controlling person" means:

6 (a) an owner, officer, or director of a corporation, partnership, or other business entity that offers  
7 appraisal management services in this state;

8 (b) an individual employed, appointed, or authorized by an appraisal management company to enter into  
9 a contractual relationship with other persons for the performance of appraisal management services and to enter  
10 into agreements with appraisers for the performance of appraisal assignments; or

11 (c) an individual who possesses directly or indirectly the power to direct or cause the direction of the  
12 management or policies of an appraisal management company.

13 (11) "Department" means the department of labor and industry provided for in 2-15-1701.

14 (12) "Licensed real estate appraisal trainee" means a person authorized only to assist a certified real  
15 estate appraiser in the performance of an appraisal assignment.

16 (13) "Licensed real estate appraiser" means a person who holds a current valid real estate appraiser  
17 license issued under 37-54-201.

18 (14) "Person" means an individual, firm, partnership, association, corporation, or other business entity.

19 (15) "Quality control examination" means an examination of an appraisal report for completeness,  
20 including grammatical, mathematical, and typographical errors.

21 (16) "Real estate appraiser mentor" means a certified real estate appraiser who meets the qualifications  
22 set by the board and is approved by the board to supervise licensed real estate appraisal trainees."

23

24 **Section 4.** Section 37-54-105, MCA, is amended to read:

25 **"37-54-105. Powers and duties of board.** The board shall:

26 (1) adopt rules to implement and administer the provisions of this chapter;

27 (2) establish and collect fees commensurate with the costs of processing;

28 (a) an application for licensure or renewal of licensure; and

29 (b) certification and or renewal of a license or certificate; and

30 (c) registration or renewal of registration of appraisal management companies;

- 1 (3) establish minimum requirements for education, experience, and examination for licensure and  
 2 certification as set out by the appraisal qualification board of the appraisal foundation;
- 3 (4) prescribe the examinations for licensure or certification and determine the acceptable level of  
 4 performance on examinations;
- 5 (5) receive and review applications for licensure, ~~and certification, or appraisal management company~~  
 6 registration and issue or, as appropriate, renew licenses, ~~and certificates, or appraisal management company~~  
 7 registrations;
- 8 (6) review periodically the standards for development and communication of appraisals and adopt rules  
 9 explaining and interpreting the standards;
- 10 (7) retain all applications and other records submitted to ~~it~~ the board;
- 11 (8) adopt by rule standards of professional appraisal practice in this state;
- 12 (9) (a) require an appraisal management company to submit reports, information, and documents to the  
 13 board; and
- 14 (b) examine the books and records of an appraisal management company operating in the state;  
 15 ~~(9)(10)~~ reprimand, suspend, revoke, or refuse to renew the license, or certificate, or registration of a  
 16 person or entity who has violated the standards established for licensed and certified real estate appraisers or  
 17 registered appraisal management companies;
- 18 ~~(10)(11)~~ regulate and establish minimum requirements and qualifications for real estate appraiser  
 19 mentors; and
- 20 (12) collect AND TRANSMIT annual registry fees from registered appraisal management companies and  
 21 federally regulated appraisal management companies in the amount determined by the appraisal subcommittee  
 22 of the federal financial institutions examination council. ~~Registry fees collected under this subsection (12) are~~  
 23 separate from registration fees provided for elsewhere in this section and must be transmitted to the appraisal  
 24 subcommittee of the federal financial institutions examination council.; AND
- 25 ~~(11)(13)~~ perform other duties necessary to implement this chapter."

26

27 **Section 5.** Section 37-54-112, MCA, is amended to read:

28 **"37-54-112. Deposit of fees. Fees** Except as provided in 37-54-105(12), fees collected by the board  
 29 under this chapter must be deposited in the state special revenue fund for the use of the board, subject to  
 30 37-1-101(6), and may be used to pay the compensation of board members and other expenses necessary to

1 administer this chapter."

2

3 **Section 6.** Section 37-54-503, MCA, is amended to read:

4 **"37-54-503. Owner requirements.** (1) An appraisal management company applying for registration in  
5 this state may not be ~~more than 10%~~ owned by:

6 (a) a person who has had a license or certificate to act as an appraiser refused, denied, canceled,  
7 revoked, or surrendered in lieu of a pending revocation in any state unless the license or certificate was  
8 subsequently granted or reinstated; or

9 (b) another entity that is ~~more than 10%~~ owned by a person who has had a license or certificate to act  
10 as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state  
11 unless the license or certificate was subsequently granted or reinstated.

12 (2) Each person who owns ~~more than 10%~~ of an appraisal management company in this state:

13 (a) must be of good moral character, as determined by the board; and

14 (b) shall submit to a background examination as determined by the board.

15 (3) Each appraisal management company applying for registration in this state shall certify to the board  
16 that it the appraisal management company has reviewed each person or entity that directly or indirectly owns  
17 ~~more than 10%~~ of the appraisal management company, in whole or in part, and that no person or entity that  
18 directly or indirectly owns ~~more than 10%~~ of the appraisal management company, in whole or in part, ~~is more than~~  
19 ~~10% directly owned by any person who has had a license, or a certificate, or registration~~ to act as an appraiser  
20 or appraisal management company refused, denied, canceled, revoked, or surrendered in lieu of a pending  
21 revocation in any state."

22

23 **Section 7.** Section 37-54-511, MCA, is amended to read:

24 **"37-54-511. Certification -- adherence to standards.** Each appraisal management company seeking  
25 to be registered in this state shall certify to the board on an annual basis that it has a system in place to perform  
26 on an annual basis an appraisal review of the work of all appraisers who are performing appraisals for the  
27 appraisal management company ~~on a periodic basis~~ to validate that the appraisals are being conducted in  
28 accordance with the uniform standards of professional appraisal practice."

29

30 NEW SECTION. SECTION 8. CODIFICATION INSTRUCTION. [SECTION 2] IS INTENDED TO BE CODIFIED AS AN

1 INTEGRAL PART OF TITLE 37, CHAPTER 54, PART 1, AND THE PROVISIONS OF TITLE 37, CHAPTER 54, PART 1, APPLY TO  
2 [SECTION 2].

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4 NEW SECTION. Section 9. Saving clause. [This act] does not affect rights and duties that matured,  
5 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

6  
7 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are  
8 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
9 the part remains in effect in all valid applications that are severable from the invalid applications.

10

11 NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

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13 NEW SECTION. SECTION 12. TERMINATION. [SECTION 2] TERMINATES JUNE 30, 2023.

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- END -