

HOUSE BILL NO. HB0086

Appraisal management regulation.

Sponsored by: Representative(s) Zwonitzer, Dv.

A BILL

for

1 AN ACT relating to real estate appraisal; establishing the
2 appraisal management company registration and regulation
3 act as specified; providing rulemaking authority; and
4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 33-39-201 through 33-39-223 are
9 created to read:

10

11

ARTICLE 2

12

APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION

13

ACT

14

15

33-39-201. Short title.

16

1 This article shall be known as the "Wyoming Appraisal
2 Management Company Registration and Regulation Act."

3

4 **33-39-202. Definitions.**

5

6 (a) As used in this article:

7

8 (i) "Appraisal" means the act or process of
9 developing an opinion of value of real property in
10 conformance with the uniform standards of professional
11 appraisal practices;

12

13 (ii) "Appraisal management company" means any
14 corporation, partnership, sole proprietorship, subsidiary,
15 unit or other business entity that:

16

17 (A) Administers networks of independent
18 contract appraisers to perform residential real estate
19 appraisal services for clients;

20

21 (B) Receives requests for residential real
22 estate appraisal services from clients and, for a fee paid
23 by the client, enters into an agreement with one (1) or

1 more independent appraisers to perform the residential real
2 estate appraisal services contained in the request; or

3

4 (C) Otherwise serves as a third-party
5 broker of residential appraisal management services between
6 clients and appraisers.

7

8 (iii) "Appraisal management services" means the
9 process of receiving a request for the performance of
10 residential real estate appraisal services from a client,
11 and for a fee paid by the client, entering into an
12 agreement with one (1) or more independent appraisers to
13 perform the real estate appraisal services contained in the
14 request;

15

16 (iv) "Appraiser" means a person who provides an
17 opinion of the market value of real property;

18

19 (v) "Appraiser fee schedule" means a list of the
20 various real estate appraisal services requested by an
21 appraisal management company in this state from independent
22 appraisers and the amount that the appraisal management
23 company is willing to pay to an independent appraiser for

1 the performance of each of the listed real estate appraisal
2 services;

3

4 (vi) "Appraiser panel" means a group of
5 independent appraisers that have been selected by an
6 appraisal management company to perform residential real
7 estate appraisal services for the appraisal management
8 company;

9

10 (vii) "Board" means the certified real estate
11 appraiser board;

12

13 (viii) "Client" means any person or entity that
14 contracts with, or otherwise enters into an agreement with,
15 an appraisal management company for the performance of
16 residential real estate appraisal services;

17

18 (ix) "Controlling person" means:

19

20 (A) The owner, officer or director of a
21 corporation, partnership or other business entity seeking
22 to offer appraisal management services in this state;

23

1 (B) An individual employed, appointed or
2 authorized by an appraisal management company that has the
3 authority to enter into a contractual relationship with
4 clients for the performance of appraisal management
5 services and has the authority to enter into agreements
6 with independent appraisers for the performance of
7 residential real estate appraisal services; or

8

9 (C) An individual who possesses, directly
10 or indirectly, the power to direct or cause the direction
11 of the management or policies of an appraisal management
12 company.

13

14 (x) "Real estate appraisal services" means the
15 practice of developing an opinion of the value of real
16 property in conformance with the uniform standards for
17 professional appraisal practice;

18

19 (xi) "Uniform standards for professional
20 appraisal practices" means as defined in W.S.
21 33-1-102(a)(xvi).

22

23 **33-39-203. Registration required.**

24

1 (a) It is unlawful for a person, corporation,
2 partnership, sole proprietorship, subsidiary, unit or any
3 other business entity to directly or indirectly engage or
4 attempt to engage in business as an appraisal management
5 company, to directly or indirectly engage or attempt to
6 perform appraisal management services, or to advertise or
7 hold itself out as engaging in or conducting business as an
8 appraisal management company without first obtaining a
9 registration issued by the board under the provisions of
10 this article, regardless of the entity's use of the term
11 "appraisal management company", "mortgage technology
12 company" or any other name.

13

14 (b) The registration required by subsection (a) of
15 this section shall, at a minimum, include the following
16 information:

17

18 (i) The name, business address and phone contact
19 information of the entity seeking registration;

20

21 (ii) If the entity is not a corporation that is
22 domiciled in this state, the name and contact information
23 for the company's agent for service of process in this
24 state;

1

2 (iii) The name, address and contact information
3 for any individual or any corporation, partnership or other
4 business entity that owns ten percent (10%) or more of the
5 appraisal management company;

6

7 (iv) The name, address and contact information
8 for a controlling person;

9

10 (v) A certification that the entity has a system
11 and process in place to verify that a person being added to
12 the appraiser panel of the appraisal management company
13 holds a permit in good standing in this state pursuant to
14 the Certified Real Estate Appraiser Act to perform
15 appraisals under that act;

16

17 (vi) A certification that the entity has a
18 system in place to review the work of all independent
19 appraisers that are performing real estate appraisal
20 services for the appraisal management company on a periodic
21 basis to ensure that the real estate appraisal services are
22 being conducted in accordance with uniform standards of
23 professional appraisal practices;

24

1 (vii) A certification that the entity maintains
2 a detailed record of each service request that it receives
3 and the independent appraiser that performs the residential
4 real estate appraisal services for the appraisal management
5 company;

6

7 (viii) An irrevocable uniform consent to service
8 of process, pursuant to W.S. 33-39-207; and

9

10 (ix) Any other information required by the
11 board.

12

13 **33-39-204. Exemptions.**

14

15 (a) This article shall not apply to:

16

17 (i) Any corporation, partnership, sole
18 proprietorship, subsidiary, unit or other business entity
19 that exclusively employs persons on an employer and
20 employee basis for the performance of residential real
21 estate appraisal services in the normal course of its
22 business and the entity is responsible for ensuring that
23 the residential real estate appraisal services being
24 performed by its employees are being performed in

1 accordance with uniform standards of professional appraisal
2 practices;

3

4 (ii) Any individual, corporation, partnership,
5 sole proprietorship, subsidiary, unit or other business
6 entity who in the normal course of business enters into an
7 agreement, whether written or otherwise, with another
8 independent contractor appraiser for the performance of
9 residential real estate appraisal services that the hiring
10 or contracting appraiser cannot complete for any reason,
11 including but not limited to competency, work load,
12 schedule or geographic location;

13

14 (iii) Any individual, corporation, partnership,
15 sole proprietorship, subsidiary, unit or other business
16 entity who in the normal course of business enters into an
17 agreement, whether written or otherwise, with an
18 independent contractor appraiser for the performance of
19 residential real estate appraisal services and upon the
20 completion of the appraisal, the report of the appraiser
21 performing the residential real estate appraisal services
22 is cosigned by the appraiser who subcontracted with the
23 independent appraiser for the performance of the
24 residential real estate appraisal services; or

1

2 (iv) Any appraisal management company that
3 contracts with independent appraisers for the performance
4 of less than ten (10) appraisals in this state in any
5 calendar year.

6

7 **33-39-205. Forms.**

8

9 An applicant for a registration as an appraisal management
10 company in this state under this article shall submit to
11 the board an application on a form as prescribed by the
12 board.

13

14 **33-39-206. Expiration of license.**

15

16 A registration granted by the board pursuant to this
17 article shall be valid for one (1) year from the date on
18 which it is issued.

19

20 **33-39-207. Consent to service of process.**

21

22 Each entity applying for registration as an appraisal
23 management company in this state shall complete an

1 irrevocable "uniform consent to service of process" as
2 prescribed by the board.

3

4 **33-39-208. Fees.**

5

6 Pursuant to W.S. 33-1-201, the board shall establish by
7 regulation the fee to be paid by each appraisal management
8 company seeking registration under this article, but in no
9 case shall the fee be more than five hundred dollars
10 (\$500.00).

11

12 **33-39-209. Owner requirements.**

13

14 (a) No appraisal management company shall be eligible
15 for registration in this state if the company has more than
16 ten percent (10%) ownership by any person who has had a
17 license or certificate to act as an appraiser refused,
18 denied, cancelled or revoked in this state or in any other
19 state.

20

21 (b) Each person that owns more than ten percent (10%)
22 of an appraisal management company in this state shall:

23

1 (i) Be of good moral character, as determined by
2 the board;

3

4 (ii) Submit to a background investigation, as
5 determined by the board; and

6

7 (iii) Certify to the board that the person has
8 never had a license to act as an appraiser refused, denied,
9 cancelled, or revoked in this state or in any other state.

10

11 **33-39-210. Controlling person.**

12

13 Each appraisal management company applying to the board for
14 registration in this state shall designate one (1)
15 controlling person that will be the main contact for all
16 communication between the board and the appraisal
17 management company.

18

19 **33-39-211. Controlling person; requirements.**

20

21 (a) In order to serve as a controlling person of an
22 appraisal management company, a person shall:

23

1 (i) Certify to the board that the person has
2 never had a certificate or a license issued by the board of
3 this state, or the board of any other state, to act as an
4 appraiser refused, denied, cancelled or revoked;

5

6 (ii) Be of good moral character, as determined
7 by the board; and

8

9 (iii) Submit to a background investigation, as
10 determined by the board.

11

12 **33-39-212. Employee requirements.**

13

14 (a) Any employee of the appraisal management company,
15 or any person working on behalf of the appraisal management
16 company, who has the responsibility of selecting
17 independent appraisers for the performance of residential
18 real estate appraisal services for the appraisal management
19 company or to review completed appraisals shall be
20 appropriately trained and qualified in the performance of
21 residential real estate appraisals as determined by the
22 board through rule and regulation.

23

1 (b) Any employee of the appraisal management company
2 that has the responsibility to review the work of
3 independent appraisers shall have demonstrated knowledge of
4 the uniform standards of professional appraisal practices,
5 as determined by the board through rule and regulation.

6

7 **33-39-213. Limitations.**

8

9 An appraisal management company registered in this state
10 pursuant to this article shall not enter into any contract
11 or agreement with an independent appraiser for the
12 performance of residential real estate appraisal services
13 unless that person is certified in good standing pursuant
14 to the Certified Real Estate Appraiser Act, W.S. 39-29-101
15 et seq.

16

17 **33-39-214. Pre-engagement certification.**

18

19 Each appraisal management company seeking to be registered
20 in this state shall certify to the board on an annual basis
21 on a form prescribed by the board that the appraisal
22 management company has a system and process in place to
23 verify that a person being added to the appraiser panel of
24 the appraisal management company holds a permit in good

1 standing in this state pursuant to the Certified Real
2 Estate Appraiser Act, W.S. 39-29-101 et seq.

3

4 **33-39-215. Adherence to standards.**

5

6 Each appraisal management company seeking to be registered
7 in this state shall certify to the board on an annual basis
8 that it has a system in place to review the work of all
9 independent appraisers that are performing real estate
10 appraisal services for the appraisal management company on
11 a periodic basis to ensure that the real estate appraisal
12 services are being conducted in accordance with uniform
13 standards of professional appraisal practices.

14

15 **33-39-216. Recordkeeping.**

16

17 Each appraisal management company seeking to be registered
18 in this state shall certify to the board on an annual basis
19 that it maintains a detailed record of each service request
20 that it receives and the independent appraiser that
21 performs the residential real estate appraisal services for
22 the appraisal management company.

23

24 **33-39-217. Appraiser fee schedule.**

1

2 (a) An appraisal management company that applies for
3 registration in this state shall disclose to the board as
4 part of the registration process if it has developed or
5 utilizes any appraiser fee schedule.

6

7 (b) An appraisal management company that applies for
8 registration in this state and which utilizes any appraiser
9 fee schedule shall develop the appraiser fee schedule
10 through one (1) or more surveys of the market rates being
11 paid to independent fee appraisers in this state for the
12 performance of real estate appraisal services.

13

14 (c) A survey performed pursuant to subsection (b) of
15 this section shall be performed utilizing statistically
16 valid methodologies, techniques and reliable data sources
17 including representative samples of independent fee
18 appraisers.

19

20 (d) The board may, in its discretion, review any
21 appraiser fee schedule developed by an appraisal management
22 company registered in this state to ensure that the fee
23 schedule was developed pursuant to the requirements of
24 subsections (b) and (c) of this section.

1

2 (e) Upon a formal request of the board, an appraisal
3 management company that utilizes any appraiser fee schedule
4 shall disclose to the board the methodologies, techniques
5 and data sources that were utilized to determine the
6 amounts listed on the schedules.

7

8 (f) Following a review of any fee schedule conducted
9 pursuant to subsections (d) and (e) of this section, the
10 board shall make the substantive results of the review
11 available to the public.

12

13 **33-39-218. Appraiser independence; prohibitions.**

14

15 (a) It shall be unlawful for any employee, director,
16 officer or agent of an appraisal management company
17 registered in this state pursuant to this chapter to
18 influence or attempt to influence the development,
19 reporting or review of an appraisal through coercion,
20 extortion, collusion, compensation, instruction,
21 inducement, intimidation, bribery or in any other manner,
22 including but not limited to:

23

1 (i) Withholding or threatening to withhold
2 timely payment for an appraisal;

3

4 (ii) Withholding or threatening to withhold
5 future business for an independent appraiser, or demoting
6 or terminating or threatening to demote or terminate an
7 independent appraiser;

8

9 (iii) Expressly or impliedly promising future
10 business, promotions or increased compensation for an
11 independent appraiser;

12

13 (iv) Conditioning the request for an appraisal
14 service or the payment of an appraisal fee or salary or
15 bonus on the opinion, conclusion or valuation to be
16 reached, or on a preliminary estimate or opinion requested
17 from an independent appraiser;

18

19 (v) Requesting that an independent appraiser
20 provide an estimated, predetermined or desired valuation in
21 an appraisal report, or provide estimated values or
22 comparable sales at any time prior to the independent
23 appraiser's completion of an appraisal service;

24

1 (vi) Providing to an independent appraiser an
2 anticipated, estimated, encouraged or desired value for a
3 subject property or a proposed or target amount to be
4 loaned to the borrower, except that a copy of the sales
5 contract for purchase transactions may be provided;

6

7 (vii) Providing to an independent appraiser, or
8 any entity or person related to the appraiser, stock or
9 other financial or nonfinancial benefits;

10

11 (viii) Allowing the removal of an independent
12 appraiser from an appraiser panel, without prior written
13 notice to such appraiser;

14

15 (ix) Obtaining, using or paying for a second or
16 subsequent appraisal or ordering an automated valuation
17 model in connection with a mortgage financing transaction
18 unless there is a reasonable basis to believe that the
19 initial appraisal was flawed or tainted and the basis is
20 clearly and appropriately noted in the loan file, or unless
21 such appraisal or automated valuation model is done
22 pursuant to a bona fide prefunding or post-funding
23 appraisal review or quality control process; or

24

1 (x) Any other act or practice that impairs or
2 attempts to impair an appraiser's independence, objectivity
3 or impartiality.

4

5 (b) Nothing in subsection (a) of this section shall
6 be construed as prohibiting the appraisal management
7 company from requesting that an independent appraiser:

8

9 (i) Provide additional information about the
10 basis for a valuation; or

11

12 (ii) Correct objective factual errors in an
13 appraisal report.

14

15 **33-39-219. Guaranty of payment.**

16

17 Each appraisal management company operating in this state
18 shall, except in cases of breach of contract or substandard
19 performance of services, make payment to an independent
20 appraiser for the completion of an appraisal or valuation
21 assignment within sixty (60) days of the date on which the
22 independent appraiser transmits or otherwise provides the
23 completed appraisal or valuation study to the appraisal
24 management company or its assignee.

1

2 **33-39-220. Alteration of appraisal reports.**

3

4 An appraisal management company may not alter, modify or
5 otherwise change a completed appraisal report submitted by
6 an independent appraiser.

7

8 **33-39-221. Adjudication of disputes between an**
9 **appraisal management company and an independent appraiser.**

10

11 (a) Except within the first thirty (30 days) after an
12 independent appraiser is first added to the appraiser panel
13 of an appraisal management company, an appraisal management
14 company may not remove an appraiser from its appraiser
15 panel or otherwise refuse to assign requests for real
16 estate appraisal services to an independent appraiser
17 without:

18

19 (i) Notifying the appraiser in writing of the
20 reasons why the appraiser is being removed from the
21 appraiser panel of the appraisal management company;

22

23 (ii) If the appraiser is being removed from the
24 panel for illegal conduct, violation of the uniform

1 standards of professional appraisal practices or a
2 violation of state licensing standards, the nature of the
3 alleged conduct or violation; and

4

5 (iii) Providing an opportunity for the appraiser
6 to respond to the notification of the appraisal management
7 company.

8

9 (b) An appraiser that is removed from the appraiser
10 panel of an appraisal management company for alleged
11 illegal conduct, violation of the uniform standards of
12 professional appraisal practice or violation of state
13 licensing standards, may file a complaint with the board
14 for a review of the decision of the appraisal management
15 company, except that in no case shall the board make any
16 determination regarding the nature of the business
17 relationship between the appraiser and the appraisal
18 management company which is unrelated to the actions
19 specified in subsection (a) of this section.

20

21 (c) If an appraiser files a complaint against an
22 appraisal management company pursuant to subsection (b) of
23 this section, the board shall adjudicate the complaint
24 within one hundred eighty (180) days.

1

2 (d) If, after opportunity for hearing and review, the
3 board determines that an appraiser did not commit a
4 violation of law, a violation of the uniform standards of
5 professional appraisal practices or a violation of state
6 licensing standards, the board shall order that an
7 appraiser be added to the appraiser panel of the appraisal
8 management company that was the subject of the complaint
9 without prejudice.

10

11 (e) Following the adjudication of a complaint to the
12 board by an appraiser against an appraisal management
13 company, an appraisal management company may not refuse to
14 make assignments for real estate appraisal services to an
15 appraiser, or reduce the number of assignments or otherwise
16 penalize the appraiser, if the board has found that the
17 appraisal management company acted improperly in removing
18 the appraiser from the appraiser panel.

19

20 **33-39-222. Enforcement.**

21

22 (a) The board may censure an appraisal management
23 company, conditionally or unconditionally suspend or revoke
24 any registration issued under this article, levy fines or

1 impose civil penalties not to exceed twenty-five thousand
2 dollars (\$25,000.00) if, in the opinion of the board, an
3 appraisal management company is attempting to perform, has
4 performed or has attempted to perform any of the following
5 acts:

6

7 (i) Committing any act in violation of this
8 chapter;

9

10 (ii) Violating any rule or regulation adopted by
11 the board in the interest of the public and consistent with
12 the provisions of this chapter;

13

14 (iii) Procuring a license for himself or anyone
15 else by fraud, misrepresentation or deceit.

16

17 **33-39-223. Disciplinary hearings.**

18

19 (a) The conduct of adjudicatory proceedings in
20 accordance with the Wyoming Administrative Procedure Act
21 for violations of this chapter is vested in the board, such
22 that:

23

1 (i) Before censuring any registrant, or
2 suspending or revoking any registration, the board shall
3 notify the registrant in writing of any charges made at
4 least twenty (20) days prior to the date set for the
5 hearing and shall afford the registrant an opportunity to
6 be heard in person or by counsel;

7

8 (ii) The written notice shall be satisfied by
9 personal service on the controlling person of the
10 registrant, the registrant's agent for service of process
11 in this state or by sending the notice by certified mail,
12 return receipt requested to the controlling person of the
13 registrant to the registrant's address on file with the
14 board;

15

16 (iii) The hearing on the charges shall be at a
17 time and place prescribed by the board and in accordance
18 with the Wyoming Administrative Procedure Act;

19

20 (iv) The board may make findings of fact and
21 shall deliver or mail such findings to the registrant
22 charged with an offense under this article.

23

1 **Section 2.** W.S. 33-39-105(a) by creating a new
2 paragraph (x) is amended to read:

3

4 **33-39-105. Powers of the board; rulemaking authority.**

5

6 (a) The board shall:

7

8 (x) Promulgate rules and regulations to
9 implement, administer and enforce the Wyoming Appraisal
10 Management Company Registration and Regulation Act under
11 W.S. 33-39-201 through 33-39-223.

12

13 **Section 3.** This act is effective July 1, 2012.

14

15

(END)