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**HOUSE BILL NO. 408****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on General Laws)

(Patron Prior to Substitute—Delegate Oder)

House Amendments in [ ] - February 15, 2010

A *BILL to amend the Code of Virginia by adding in Title 54.1 a chapter numbered 20.2, consisting of sections numbered 54.1-2020 through 54.1-2023, relating to the regulation of appraisal management companies by the Real Estate Appraiser Board; penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 54.1 a chapter numbered 20.2, consisting of sections numbered 54.1-2020 through 54.1-2023, as follows:**

*CHAPTER 20.2.**REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.**§ 54.1-2020. Definitions.*

A. As used in this chapter, unless the context clearly requires otherwise:

"Appraisal management company" means a person or entity that (i) administers a network of independent contract appraisers, receives requests for appraisals from clients, and receives a fee paid by the client for the appraisals and (ii) enters into an agreement with one or more independent appraisers in its network to perform the appraisals contained in the request.

"Board" means the Virginia Real Estate Appraiser Board.

"Employee" means an individual who has an employment relationship acknowledged by both the individual and the company and is treated as an employee for purposes of compliance with federal income tax laws.

B. The definitions contained in § 54.1-2009 shall be applicable except to the extent inconsistent with the definitions contained in this chapter.

*§ 54.1-2021. Exemptions.*

The provisions of this chapter shall not apply to:

1. Any agency of the federal government or any agency of the Commonwealth or local government;

2. Any person or entity that exclusively employs persons on an employer and employee basis for the performance of appraisals in the normal course of its business and the entity is responsible for ensuring that the appraisals are being performed in accordance with this chapter and with the Uniform Standards of Professional Appraisal Practice;

3. Any person or entity that has as its primary business the development of appraisals in the Commonwealth in accordance with Chapter 20.1 (§ 54.1-2009 et seq.) of this title and with the Uniform Standards of Professional Appraisal Practice;

4. Any person or entity that has as its primary business the development of appraisals in the Commonwealth but that in the normal course of business enters into an agreement with an independent contract appraiser for the performance of appraisals that the contracting entity cannot complete either because of the location or type of property in question;

5. Any licensed real estate broker performing activities in accordance with Chapter 21 (§ 54.1-2100 et seq.) of this title; or

6. Any officer or employee of an exempt entity described in this chapter when acting in the scope of employment for the exempt entity.

*§ 54.1-2022. Appraisal management companies.*

A. An appraisal management company shall not enter into any contracts or agreements with an independent appraiser for the performance of residential real estate appraisal services unless the independent appraiser is licensed to provide that service under § 54.1-2017 and as otherwise provided in Chapter 20.1 (§ 54.1-2009 et seq.) of this title.

B. The appraisal management company shall not prohibit an appraiser from disclosing in the appraisal report the actual fees charged by an appraiser for appraisal services, and shall otherwise comply with any applicable requirements of federal law including the requirements of the United States Department of Housing and Urban Development.

C. No employee, director, officer, or agent of an appraisal management company shall influence or attempt 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:

1. Withholding or threatening to withhold timely payment for a real estate appraisal report;

2. Withholding or threatening to withhold future business from a real estate appraiser or demoting or terminating or threatening to demote or terminate a real estate appraiser;

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HB408EH1

60 3. Expressly or impliedly promising future business, promotions, or increased compensation for a  
61 real estate appraiser;

62 4. Conditioning the ordering of a real estate appraisal report or the payment of a real estate  
63 appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached or on a  
64 preliminary estimate requested from a real estate appraiser;

65 5. Requesting that a real estate appraiser provide an estimated, predetermined, or desired valuation  
66 in a real estate appraisal report or provide estimated values or comparable sales at any time before the  
67 appraiser's completion of the appraisal report;

68 6. Providing to a real estate appraiser an anticipated, estimated, encouraged, or desired value for a  
69 subject property or a proposed or targeted amount to be loaned to the borrower. However, a real estate  
70 appraiser may be provided with a copy of the sales contract for purchase transactions;

71 7. Allowing the removal of a real estate appraiser from a list of qualified appraisers used by any  
72 entity without prior written notice to the appraiser. The notice shall include written evidence of the  
73 appraiser's illegal conduct, substandard performance, or otherwise improper or unprofessional behavior  
74 or any violation of the Uniform Standards of Professional Appraisal Practice or licensing standards for  
75 appraisers in the Commonwealth;

76 8. Any other act or practice that impairs or attempts to impair a real estate appraiser's  
77 independence, objectivity, or impartiality;

78 9. Requesting or requiring a real estate appraiser to collect a fee from the borrower, homeowner, or  
79 any other person in the provision of real estate appraisal services;

80 10. Altering, modifying, or otherwise changing a completed appraisal report submitted by an  
81 independent appraiser without the appraiser's written knowledge and consent;

82 11. Use, by the appraisal management company, of an appraisal report submitted by an independent  
83 appraiser for any other transaction, purpose or use other than for that which the appraisal was  
84 prepared; however, nothing in this section shall be construed as prohibiting an appraisal management  
85 company from providing a copy of the appraisal to a federal agency in the normal course of business or  
86 when providing a copy of the appraisal is otherwise required by law;

87 12. Requiring an appraiser to sign any indemnification agreement that would require the appraiser  
88 to defend and hold harmless the appraisal management company or any of its agents, employees or  
89 independent contractors for any liability, damage, losses, or claims arising out of the services performed  
90 by the appraisal management company or its agents, employees or independent contractors and not the  
91 services performed by the appraiser; or

92 13. Requiring an appraiser to provide the company with the appraiser's digital signature or seal.

93 D. Nothing in this section shall be construed as prohibiting an appraisal management company from  
94 requesting that a real estate appraiser:

95 1. Consider additional appropriate property information;

96 2. Provide further detail, substantiation, or explanation for the real estate appraiser's value  
97 conclusion; or

98 3. Correct errors in the real estate appraisal report.

99 § 54.1-2023. Penalty.

100 In any action brought under this chapter, if a court finds that a person has willfully engaged in an  
101 act or practice in violation of this chapter, the Attorney General, the attorney for the Commonwealth, or  
102 the attorney for the locality may recover for the Literary Fund, upon petition to the court, a civil  
103 penalty of not more than \$2,500 per violation. For purposes of this section, prima facie evidence of a  
104 willful violation may be shown when the Attorney General, the attorney for the Commonwealth, or the  
105 attorney for the locality notifies the alleged violator by certified mail that an act or practice is a  
106 violation of this chapter and the alleged violator, after receipt of the notice, continues to engage in the  
107 act or practice.

108 [ Violations of this chapter shall constitute separate and distinct offenses. If the acts or activities  
109 violating this chapter also violate another provision of law, an action brought under this chapter shall  
110 not prohibit or bar any prosecution or proceeding under such other provision or the imposition or any  
111 penalties provided for thereby. ]