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SENATE BILL NO. 979

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 5, 2018)

(Patron Prior to Substitute—Senator Chafin)

A BILL to amend and reenact §§ 54.1-2020 and 54.1-2021.1 of the Code of Virginia, relating to professions and occupations; appraisal management companies.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2020 and 54.1-2021.1 of the Code of Virginia are amended and reenacted as follows:

§ 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 provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates; (ii) provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and (iii) within a 12-month calendar year, oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed appraisers in two or more states. "Appraisal management company" does not include a department or division of an entity that provides appraisal management services only to that entity.

"Appraisal management services" means one or more of the following: (i) recruiting, selecting, and retaining appraisers; (ii) contracting with state-certified or state-licensed appraisers to perform appraisal assignments; (iii) managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and (iv) reviewing and verifying the work of appraisers.

"Appraisal services" means acting as an appraiser to provide an appraisal or appraisal review.

"Appraiser" means a person licensed or certified under § 54.1-2017 and as otherwise provided in Chapter 20.1 (§ 54.1-2009 et seq.).

"Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company. Appraisers on an appraisal management company's appraiser panel include both appraisers accepted by the appraisal management company for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions and appraisers engaged by the appraisal management company to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this chapter if the appraiser is treated as an independent contractor by the appraisal management company for purposes of federal income taxation.

"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.

"Uniform Standards of Professional Appraisal Practice" means the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

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

§ 54.1-2021.1. Appraisal management companies; license required; posting of bond or letter of credit.

A. No person shall engage in business as an appraisal management company without a license issued by the Board.

B. The Board may issue a license to do business as an appraisal management company in the Commonwealth to any applicant who has submitted a complete application and provides satisfactory evidence that he has successfully:

1. Completed all requirements established by the Board that are consistent with this chapter and are

60 reasonably necessary to implement, administer, and enforce the provisions of this chapter; and

61 2. Certified to the Board the following information, and such other information as may be reasonably
62 required by the Board, regarding the person or entity seeking licensure:

63 a. The name of the person or entity;

64 b. The business address of the person or entity;

65 c. Phone contact information for the person or entity, and email address;

66 d. If the entity is not an entity domiciled in the Commonwealth, the name and contact information
67 for the entity's agent for service of process in the Commonwealth;

68 e. If the entity is not an entity domiciled in the Commonwealth, proof that the entity is properly and
69 currently registered with the Virginia State Corporation Commission;

70 f. The name, address, and contact information for any person or any entity that owns 10 percent or
71 more of the appraisal management company;

72 g. The name, address, and contact information for a responsible person for the appraisal management
73 company located in the Commonwealth, who shall be a person or entity licensed under Chapter 20.1
74 (§ 54.1-2009 et seq.);

75 h. That any person or entity that owns ~~10 percent or more~~ *any part* of the appraisal management
76 company has never had a license to act as an appraiser refused, denied, canceled, *surrendered in lieu of*
77 *revocation*, or revoked by the Commonwealth or any other state;

78 i. That the entity has a system in place to review the work of all appraisers that may perform
79 appraisal services for the appraisal management company on a periodic basis to ensure that the appraisal
80 services are being conducted in accordance with the Uniform Standards of Professional Appraisal
81 Practice;

82 j. That the entity maintains a detailed record of the following: (i) each request for an appraisal
83 service that the appraisal management company receives; (ii) the name of each independent appraiser
84 that performs the appraisal; (iii) the physical address or legal identification of the subject property; (iv)
85 the name of the appraisal management company's client for the appraisal; (v) the amount paid to the
86 appraiser; and (vi) the amount paid to the appraisal management company; and

87 k. That the entity has a system in place to ensure compliance with § 129E of the Truth in Lending
88 Act (15 U.S.C. § 1601 et seq.).

89 C. Any person that owns 10 percent or more of an appraisal management company and any
90 controlling person of an appraisal management company seeking to be licensed pursuant to this chapter
91 shall be of good moral character, as determined by the Board, and shall submit to a background
92 investigation, as determined by the Board.

93 D. In addition to the filing fee, each applicant for licensure shall post either a bond or a letter of
94 credit as follows:

95 1. If a bond is posted, the bond shall (i) be in the amount of \$100,000 or any other amount as set by
96 regulation of the Board, (ii) be in a form prescribed by regulation of the Board, and (iii) accrue to the
97 Commonwealth for the benefit of (a) a claimant against the licensee to secure the faithful performance
98 of the licensee's obligations under this chapter or (b) an appraiser who has performed an appraisal for
99 the licensee for which the appraiser has not been paid. The aggregate liability of the surety shall not
100 exceed the principal sum of the bond. A party having a claim against the licensee may bring suit
101 directly on the surety bond. When a claimant or an appraiser is awarded a final judgment in a court of
102 competent jurisdiction against a licensee of this section for the licensee's failure to faithfully perform its
103 obligations under this chapter or failure to pay an appraiser who performed an appraisal, the claimant or
104 the appraiser may file a claim with the Board for a directive ordering payment from the bond issuer of
105 the amount of the judgment, court costs and reasonable attorney fees as awarded by the court. Such
106 claim shall be filed with the Board no later than 12 months after the judgment becomes final. Upon
107 receipt of the claim against the licensee, the Board may cause its own investigation to be conducted.
108 The amount of the bond shall be restored by the licensee to the full amount required within 15 days
109 after the payment of any claim on the bond. If the licensee fails to restore the full amount of the bond,
110 the Board shall immediately revoke the license of the licensee whose conduct resulted in payment from
111 the bond.

112 2. If a letter of credit is posted, the letter of credit shall (i) be in the amount of \$100,000 or any
113 other amount as set by regulation of the Board, (ii) be irrevocable and in a form approved by the Board,
114 payable to the Department of Professional Occupational Regulation, and (iii) be for the use and the
115 benefit of (a) a claimant against the licensee to secure the faithful performance of the licensee's
116 obligations under this chapter or (b) an appraiser who has performed an appraisal for the licensee for
117 which the appraiser has not been paid. The aggregate liability on the letter of credit shall not exceed the
118 principal sum of the letter of credit. When a claimant or an appraiser is awarded a final judgment in a
119 court of competent jurisdiction against a licensee of this section for the licensee's failure to faithfully
120 perform its obligations under this chapter or failure to pay an appraiser who performed an appraisal, the
121 claimant or the appraiser may file a claim with the Board for a directive ordering payment from the

122 issuer of the letter of credit of the amount of the judgment, court costs and reasonable attorney fees as
123 awarded by the court. Such claim shall be filed with the Board no later than 12 months after the
124 judgment becomes final. Upon receipt of the claim against the licensee, the Board may cause its own
125 investigation to be conducted. Upon a draw against a letter of credit, the licensee shall provide a new
126 letter of credit in the amount required by this subdivision within 15 days after payment of any claim on
127 the letter of credit. If the licensee fails to restore the full amount of the letter of credit, the Board shall
128 immediately revoke the license of the licensee whose conduct resulted in payment from the bond.