AN ACT

ENTITLED, An Act to provide for the registration and regulation of appraisal management companies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Any person or entity acting as an appraisal management company or performing appraisal management services in this state, except an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency, shall register with the Department of Revenue and Regulation. Any person or entity who violates this section may be restrained by permanent injunction in any court of competent jurisdiction, at the suit of the attorney general or any citizen of the state.

Section 2. For the purposes of this Act, the term, appraisal management company, means, in connection with valuing properties and collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than fifteen certified or licensed appraisers in a state or twenty-five or more nationally within a given year to:

(1) Recruit, select, and retain appraisers;

(2) Contract with licensed or certified appraisers to perform appraisal assignments;

(3) Manage the process of having an appraisal performed, including providing administrative duties including:

(a) Receiving appraisal orders and appraisal reports;

(b) Submitting completed appraisal reports to creditors and underwriters;

(c) Collecting fees from creditors and underwriters for services provided; or

(d) Reimbursing appraisers for services performed; or

(4) Review and verify the work of appraisers for compliance with the Uniform Standards of Professional Appraisal Practice.

Section 3. For the purposes of this chapter, an appraisal is the act or process of estimating value of real estate for another and for compensation.

Section 4. The secretary of the Department of Revenue and Regulation may promulgate rules pursuant to chapter 1-26 relating to appraisal management companies and appraisal management services as follows:

(1) Registration of appraisal management companies;

(2) Definition of terms;

(3) Responsibilities and duties;

(4) Application for and issuance of certificate of registration;

(5) Renewal and late renewal procedures;

(6) Investigation and contracting for investigations;

(7) Complaints and grounds for disciplinary actions, including denial, revocation, suspension, censure, and reprimand;

(8) Retention and inspection of records;

(9) Roster;

(10) Review of appraisal related records;

(11) Inspection, examination, and photocopy of records; and

(12) National registry fee collection and remittance.

Section 5. The secretary of the Department of Revenue and Regulation may promulgate rules pursuant to chapter 1-26 to establish fees for registration of appraisal management companies as follows:

(1) Application fees not to exceed one thousand dollars;

(2) Renewal fees not to exceed one thousand dollars; and

(3) An additional late renewal fee not to exceed six hundred dollars.

Section 6. All moneys received by the Department of Revenue and Regulation pursuant to this Act shall be deposited by the department with the state treasurer. The state treasurer shall credit the moneys to the South Dakota appraisal management companies fund. Expenditure from this fund shall only be paid on warrants drawn by the state auditor and approved by the department.

Section 7. Any expenditure of money from the South Dakota appraisal management companies fund shall be made only upon appropriation by the Legislature through either the general appropriations act or a special appropriations bill.

Section 8. The secretary of the Department of Revenue and Regulation may impose a monetary penalty not to exceed two thousand dollars on an appraisal management company registered pursuant to this Act or on an unregistered appraisal management company performing appraisal management services in this state, upon proof of a violation of the rules relating to appraisal management companies as adopted by the department pursuant to chapter 1-26 or a violation of this Act.

Section 9. The secretary of the Department of Revenue and Regulation may assess to a registered appraisal management company, an applicant for registration as an appraisal management company, or an unregistered appraisal management company performing appraisal management services in this state, all or part of the actual expenses of a contested case proceeding resulting in the discipline or censure of the registrant, suspension or revocation of the registrant's certificate of registration, the denial of a certificate of registration to the applicant, or the discipline or censure of an unregistered appraisal management company performing appraisal management services in this state.

Section 10. No employee, director, officer, agent, independent contractor or other third party acting on behalf of an appraisal management company may:

(1) Improperly influence or attempt to improperly influence the development, reporting,

result, or review of a real estate appraisal;

(2) Intimidate, coerce, extort, bribe, blackmail, withhold payment for appraisal services, or threaten to exclude the real estate appraiser from future work in order to improperly obtain a desired result;

(3) Condition payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached;

(4) Request a real estate appraiser to report a predetermined opinion, conclusion, or valuation or the desired valuation of any person or entity;

(5) Engage in any other act or practice that impairs or attempts to impair a real estate appraiser's independence, objectivity, and impartiality;

(6) Require a real estate appraiser to provide the appraisal management company with the appraiser's digital signature or seal;

(7) Alter, amend, or change an appraisal report submitted by a real estate appraiser;

(8) Remove an appraiser from a real estate appraiser panel without prior written notice to the appraiser, with the prior written notice including evidence of the following:

(a) The appraiser's illegal conduct;

(b) A violation of the appraisal standards adopted by the Department of Revenue and Regulation pursuant to this Act; or

(c) Improper or unprofessional conduct; or

(9) Require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents or employees for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

A violation of this section may constitute grounds for discipline against an appraisal management company who is registered pursuant to the laws of the State of South Dakota.

Section 11. No appraisal management company violates section 10 of this Act solely by asking a real estate appraiser to:

(1) Consider additional, appropriate property information;

(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(3) Correct errors in the appraisal report.

An appraisal management company may retain a real estate appraiser from panels or lists on a rotating basis; supply an appraiser with information the appraiser is required to analyze under the appraisal standards adopted by the department, such as agreements of sale, options, and listings of the property to be valued; and withhold payment of an appraisal fee based on a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the Department of Revenue and Regulation pursuant to this Act.

An Act to provide for the registration and regulation of appraisal management companies.

I certify that the attached Act originated in the

HOUSE as Bill No. 1033

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1033
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State