



The Legislature  
of the  
State of New Mexico

49th Legislature, Second Session

LAWS 2010

CHAPTER 13

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILL 138, as amended

Introduced by



# Chapter 13

## AN ACT

RELATING TO APPRAISAL MANAGEMENT COMPANIES; AMENDING PROCEDURES FOR DISCIPLINARY PROCEEDINGS; CLARIFYING THE RIGHTS AND OBLIGATIONS OF APPRAISERS AND APPRAISAL MANAGEMENT COMPANIES WITH REGARD TO LIABILITY, FEES AND DISCLOSURE; REQUIRING SURETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-14-1 NMSA 1978 (being Laws 2009, Chapter 214, Section 1) is amended to read:

"47-14-1. SHORT TITLE.--Chapter 47, Article 14 NMSA 1978 may be cited as the "Appraisal Management Company Registration Act"."

Section 2. Section 47-14-3 NMSA 1978 (being Laws 2009, Chapter 214, Section 3) is amended to read:

"47-14-3. REGISTRATION REQUIRED.--

A. It is unlawful for a person, corporation, partnership, sole proprietorship, subsidiary, limited liability company or any other business entity to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a certificate of registration issued by the board

1 under the provisions of the Appraisal Management Company  
2 Registration Act, regardless of the entity's use of the term  
3 "appraisal management company", "mortgage technology company"  
4 or any other name.

5 B. The registration required by Subsection A of  
6 this section shall include:

7 (1) the name of the entity seeking  
8 registration;

9 (2) the business address of the entity  
10 seeking registration;

11 (3) telephone contact information of the  
12 entity seeking registration;

13 (4) if the entity seeking registration is  
14 not a corporation that is domiciled in this state, the name  
15 and contact information for the company's agent for service  
16 of process in this state;

17 (5) the name, address and contact  
18 information for any individual or any corporation,  
19 partnership or other business entity that owns ten percent or  
20 more of the appraisal management company;

21 (6) the name, address and contact  
22 information for a controlling person;

23 (7) a certification that the entity seeking  
24 registration has a system and process in place to verify that  
25 a person being added to the appraiser panel of the appraisal

1 management company holds a license or certification in good  
2 standing in this state pursuant to the Real Estate Appraisers  
3 Act;

4 (8) a certification that the entity seeking  
5 registration has a system in place to review the work of all  
6 independent appraisers that are performing real estate  
7 appraisal services for the appraisal management company on a  
8 periodic basis to ensure that the real estate appraisal  
9 services are being conducted in accordance with uniform  
10 standards of professional appraisal practice;

11 (9) a certification that the entity  
12 maintains a detailed record of each service request that it  
13 receives and the independent appraiser that performs the real  
14 estate appraisal services for the appraisal management  
15 company;

16 (10) an irrevocable consent to service of  
17 process;

18 (11) a bond or other equivalent means of  
19 security as required by the Appraisal Management Company  
20 Registration Act; and

21 (12) any other information required by the  
22 board."

23 Section 3. Section 47-14-12 NMSA 1978 (being Laws 2009,  
24 Chapter 214, Section 12) is amended to read:

25 "47-14-12. EMPLOYEE REQUIREMENTS.--

1           A. Any employee of the appraisal management  
2 company, or any person working on behalf of the appraisal  
3 management company, that has the responsibility of selecting  
4 independent appraisers for the performance of real estate  
5 appraisal services for the appraisal management company or  
6 the responsibility of reviewing completed appraisals shall  
7 have geographic and product competence and be appropriately  
8 trained and qualified in the performance of real estate  
9 appraisals as determined by the board by rule.

10           B. Any employee of the appraisal management  
11 company that has the responsibility to review the work of  
12 independent appraisers shall have demonstrated knowledge of  
13 the uniform standards of professional appraisal practice, as  
14 determined by the board by rule."

15           Section 4. Section 47-14-13 NMSA 1978 (being Laws 2009,  
16 Chapter 214, Section 13) is amended to read:

17           "47-14-13. REQUIREMENTS--LIABILITY.--

18           A. An appraisal management company registered in  
19 this state pursuant to the Appraisal Management Company  
20 Registration Act shall not enter into contracts or agreements  
21 with an independent appraiser for the performance of real  
22 estate appraisal services unless that person is licensed or  
23 certified in good standing pursuant to the Real Estate  
24 Appraisers Act.

25           B. An appraisal management company shall not

1 require an appraiser to indemnify the appraisal  
2 management company against liability except liability  
3 for errors and omissions by the appraiser.”

4 Section 5. Section 47-14-18 NMSA 1978 (being Laws 2009,  
5 Chapter 214, Section 18) is amended to read:

6 "47-14-18. PAYMENT--LIMITS--DISCLOSURE--NONTAXABLE  
7 TRANSACTION CERTIFICATE.--

8 A. The fees paid to an appraiser for completion of  
9 the appraisal shall not include a fee for management of the  
10 appraisal process or any activity other than the performance  
11 of the appraisal.

12 B. An appraisal management company shall  
13 separately state the fees paid to an appraiser for appraisal  
14 services and the fees charged by the appraisal management  
15 company for services associated with the management of the  
16 appraisal process, including procurement of the appraiser's  
17 services to the client, borrower and any other payor.

18 C. Appraisers shall not be prohibited by the  
19 appraisal management company, client or other third party  
20 from disclosing the fee paid to the appraiser for the  
21 performance of the appraisal in the appraisal report.

22 D. As used in this section, "payor" means any  
23 person or entity who is responsible for making payment for  
24 the appraisal.

25 E. An appraisal management company shall, except

1 in cases of breach of contract or substandard performance of  
2 services, make payment to an independent appraiser for the  
3 completion of an appraisal or valuation assignment within  
4 sixty days of the date on which the independent appraiser  
5 transmits or otherwise provides the completed appraisal or  
6 valuation study to the appraisal management company or its  
7 assignee.

8 F. An appraisal management company shall provide  
9 an appraiser with the appropriate nontaxable transaction  
10 certificate pursuant to Section 7-9-48 NMSA 1978."

11 Section 6. Section 47-14-22 NMSA 1978 (being Laws 2009,  
12 Chapter 214, Section 22) is amended to read:

13 "47-14-22. DISCIPLINARY HEARINGS.--The board shall  
14 conduct adjudicatory proceedings in accordance with the  
15 Uniform Licensing Act; provided that:

16 A. a written notice shall be satisfied by personal  
17 service on the controlling person of the registrant or the  
18 registrant's agent for service of process in this state or by  
19 sending the notice by certified mail, return receipt  
20 requested, to the controlling person of the registrant to the  
21 registrant's address on file with the board; and

22 B. a hearing on the charges shall be at a time and  
23 place prescribed by the board."

24 Section 7. A new section of the Appraisal Management  
25 Company Registration Act is enacted to read:

1 "BONDING REQUIREMENTS.--

2 A. In order to qualify for registration or renewal  
3 of registration, an appraisal management company shall  
4 maintain a bond underwritten by a corporate surety authorized  
5 to transact business in New Mexico, or other equivalent means  
6 of security. The board shall set by rule the amount and  
7 conditions of the surety bond or other equivalent means of  
8 security required by this section, provided that the amount  
9 of the bond or security required shall not exceed twenty-five  
10 thousand dollars (\$25,000).

11 B. The bond or other equivalent means of surety  
12 shall secure payment for any administrative or judicial  
13 penalties that may be imposed by the board or the state and  
14 for any penalties or costs required by a board disciplinary  
15 action, and also as indemnity for any loss sustained by any  
16 person damaged as a result of a violation by the appraisal  
17 management company, of any provision of the Appraisal  
18 Management Company Registration Act or of any rule of the  
19 board adopted pursuant to that act. Consumer claims shall be  
20 given priority in recovering from the bond or equivalent  
21 surety.

22 C. An appraisal management company shall notify  
23 the board in writing of any claim made on the appraisal  
24 management company's bond or equivalent surety.

25 D. A deposit of cash or security may be accepted



1 in lieu of the surety bond."

2 Section 8. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2010. \_\_\_\_\_

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Diane D. Denish

Diane D. Denish, President  
Senate

Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

Ben Lujan

Ben Lujan, Speaker  
House of Representatives

Stephen R. Arias  
Stephen R. Arias, Chief Clerk  
House of Representatives

Approved by me this 1st day of March, 2010

Bill Richardson  
Governor Bill Richardson  
State of New Mexico

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