

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL**

Introduced by  
Read first time  
Committee:

A BILL

1 FOR AN ACT relating to appraisal services; to amend sections 76-3201,  
2 76-3202, 76-3203, 76-3206, 76-3208, 76-3216, 76-3217, and  
3 76-3219, Revised Statutes Cumulative Supplement, 2012; to  
4 change provisions relating to the Nebraska Appraisal  
5 Management Company Registration Act; to harmonize  
6 provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 76-3201, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3                   76-3201 Sections 76-3201 to 76-3220 and section 3 of this  
4 act shall be known and may be cited as the Nebraska Appraisal  
5 Management Company Registration Act.

6                   Sec. 2. Section 76-3202, Revised Statutes Cumulative  
7 Supplement, 2012, is amended to read:

8                   76-3202 For purposes of the Nebraska Appraisal Management  
9 Company Registration Act:

10                   (1) Appraisal has the same meaning as in section 76-2204;

11                   (2) Appraisal Foundation has the same meaning as in  
12 section 76-2205;

13                   (3) Appraisal management company means, ~~in connection~~  
14 ~~with valuing real property collateralizing mortgage loans, mortgages,~~  
15 ~~or trust deeds incorporated into a securitization,~~ any external third  
16 party that oversees a network or panel of more than fifteen certified  
17 or licensed appraisers in this state or twenty-five or more certified  
18 or licensed appraisers nationally within a given year and that is  
19 authorized: ~~, either by a creditor of a consumer credit transaction~~  
20 ~~secured by a consumer's principal dwelling or by an underwriter of or~~  
21 ~~other principal in the secondary mortgage markets:~~

22                   (a) To recruit, select, and retain appraisers;

23                   (b) To contract with certified or licensed appraisers to  
24 perform real property appraisal ~~activity;~~ services;

25                   (c) To manage the process of having an appraisal

1 performed, including providing administrative duties such as  
2 receiving appraisal orders and appraisal reports, submitting  
3 completed appraisal reports to ~~creditors and underwriters,~~ clients,  
4 collecting fees from ~~creditors and underwriters~~ clients for appraisal  
5 services provided, and reimbursing appraisers for appraisal services  
6 performed; or

7 (d) To review and verify the work of appraisers;

8 (4) Appraisal practice has the same meaning as in section  
9 76-2205.01;

10 (5) Appraisal report has the same meaning as in section  
11 76-2206;

12 (6) Appraisal review means the act or process of  
13 developing and communicating an opinion about the quality of another  
14 appraiser's work that was performed as part of a ~~real property~~  
15 ~~appraisal activity, valuation or evaluation assignment,~~ except that a  
16 quality control examination of an appraisal report shall not be an  
17 appraisal review;

18 (7) Appraisal services means ~~residential~~-valuation or  
19 evaluation assignments performed by an individual acting as ~~an a real~~  
20 property appraiser, including, but not limited to, appraisal, and  
21 appraisal review; ~~, or consulting services;~~

22 (8) Appraiser means an individual who holds a license or  
23 certification as ~~an a real property~~ appraiser and is expected to  
24 perform valuation and evaluation assignments competently and in a  
25 manner that is independent, impartial, and objective;

1                   (9) Appraiser panel means a group of licensed or  
2 certified ~~independent~~ real property appraisers that have been  
3 selected to perform appraisal services for a third party;

4                   (10) Assignment means an agreement between an appraisal  
5 management company and a client to provide appraisal services or an  
6 appraisal service that is provided as a consequence of such an  
7 agreement;

8                   ~~(10)~~ (11) Board means the Real Property Appraiser Board;

9                   ~~(11) Consulting service has the same meaning as in~~  
10 ~~section 76-2211.01;~~

11                   (12) Client means the party or parties who engage, by  
12 employment or contract, an appraisal management company in a specific  
13 assignment;

14                   ~~(12)~~ (13) Controlling person means:

15                   (a) An officer or director of, or owner of greater than a  
16 ten percent interest in, a corporation, partnership, or other  
17 business entity seeking to act or acting as an appraisal management  
18 company in this state;

19                   (b) An individual employed, appointed, or authorized by  
20 an appraisal management company that has the authority to enter into  
21 a contractual relationship with other persons for the performance of  
22 services requiring registration as an appraisal management company  
23 and that has the authority to enter into agreements with appraisers  
24 for the performance of appraisals; or

25                   (c) An individual who possesses, directly or indirectly,

1 the power to direct or cause the direction of the management or  
2 policies of an appraisal management company;

3 (14) Evaluation assignment has the same meaning as in  
4 section 76-2212;

5 ~~(13)~~(15) Federal financial institution regulatory agency  
6 means the Board of Governors of the Federal Reserve System, the  
7 Federal Deposit Insurance Corporation, the Office of the Comptroller  
8 of the Currency, the Office of Thrift Supervision, the National  
9 Credit Union Administration, or the successor of any of such  
10 agencies;

11 ~~(14)~~(16) Federally related transaction means any real  
12 estate-related financial transaction which:

13 (a) A federal financial institution regulatory agency or  
14 the Resolution Trust Corporation engages in, contracts for, or  
15 regulates; and

16 (b) Requires the services of an appraiser;

17 ~~(15)~~(17) Owned and controlled means direct or indirect  
18 ownership or control of more than twenty-five percent of the voting  
19 shares of an appraisal management company;

20 ~~(16)~~(18) Person means an individual, firm, partnership,  
21 limited partnership, limited liability company, association,  
22 corporation, or other group engaged in joint business activities,  
23 however organized;

24 ~~(17)~~(19) Quality control examination means an  
25 examination of an appraisal report for compliance and completeness,

1 including grammatical, typographical, or other similar errors;

2 ~~(18)~~(20) Real estate has the same meaning as in section  
3 76-2214;

4 ~~(19)~~(21) Real estate-related financial transaction means  
5 any transaction involving:

6 (a) The sale, lease, purchase, investment in, or exchange  
7 of real property, including interests in real property or the  
8 financing thereof;

9 (b) The refinancing of real property or interests in real  
10 property; or

11 (c) The use of real property or interests in real  
12 property as security for a loan or investment, including mortgage-  
13 backed securities;

14 ~~(20)~~(22) Real property has the same meaning as in  
15 section 76-2217;

16 ~~(21)~~(23) Real property appraisal activity has the same  
17 meaning as in section 76-2215;

18 (24) Real property appraiser has the same meaning as in  
19 section 76-2216;

20 ~~(22)~~(25) Relocation management company means a business  
21 entity in which the preponderance of its business services include  
22 relocation of employees as an agent or contracted service provider to  
23 the employer for the purposes of determining an anticipated sales  
24 price for the residence of an employee being relocated by the  
25 employer;

1                   ~~(23)~~(26) Uniform Standards of Professional Appraisal  
2 Practice has the same meaning as in section 76-2213.01; and

3                   ~~(24)~~(27) Valuation assignment has the same meaning as in  
4 section 76-2219.

5                   Sec. 3. (1) Except as provided in section 76-3204, it  
6 shall be unlawful for any person to act as an appraisal management  
7 company in this state without first obtaining proper registration as  
8 required under the Nebraska Appraisal Management Company Registration  
9 Act.

10                   (2) Any person who, directly or indirectly for another,  
11 with the intention or upon the promise of receiving any form of  
12 compensation or consideration, offers, attempts, or agrees to perform  
13 any act described in subdivision (3) of section 76-3202 shall be  
14 deemed an appraisal management company, within the meaning of the  
15 act, and such action shall constitute sufficient contact with the  
16 state for the exercise of personal jurisdiction over such person in  
17 any action arising out of such action. Committing a single act  
18 described in such subdivision by a person required to be registered  
19 under the act and not so registered shall constitute a violation of  
20 the act for which the board may impose sanctions pursuant to this  
21 section for the protection of the public health, safety, or welfare.

22                   (3) Notwithstanding any other law to the contrary, the  
23 board may issue a cease and desist order against any person who  
24 violates this section by performing any action described in  
25 subdivision (3) of section 76-3202 without the appropriate

1 registration. Such order shall be final ten days after issuance  
2 unless the violator requests a hearing pursuant to section 76-3217.

3           Sec. 4. Section 76-3203, Revised Statutes Cumulative  
4 Supplement, 2012, is amended to read:

5           76-3203 ~~(1) It is unlawful for a person to directly or~~  
6 ~~indirectly engage in or attempt to engage in business as an appraisal~~  
7 ~~management company or to advertise or hold itself out as engaging in~~  
8 ~~or conducting business as an appraisal management company in this~~  
9 ~~state without first obtaining a registration issued by the board.~~

10           ~~(2)-(1)~~ An application for the registration required by  
11 ~~subsection (1) of this section~~ shall include the following  
12 information:

13           (a) The name of the person seeking registration and any  
14 other name or names, if any, under which it will do business in this  
15 state;

16           (b) The business address of the person seeking  
17 registration;

18           (c) The telephone contact information of the person  
19 seeking registration;

20           (d) If the person seeking registration is not a  
21 corporation that is domiciled in this state, the name and contact  
22 information for the person's agent for service of process in this  
23 state;

24           (e) The name, address, and contact information for any  
25 person that owns ten percent or more of the person seeking

1 registration;

2 (f) The name, address, and contact information for one  
3 controlling person designated as the main contact for all  
4 communication between the person seeking registration and the board;

5 (g) A certification that the person seeking registration  
6 has a system and process in place to verify that an appraiser  
7 selected to the appraiser panel of the person seeking registration  
8 holds a license or certification in good standing in this state  
9 pursuant to the Real Property Appraiser Act;

10 (h) A certification that the person seeking registration  
11 requires appraisers completing appraisal services at the person's  
12 request to comply with the Uniform Standards of Professional  
13 Appraisal Practice, including the requirements for geographic and  
14 product competence;

15 (i) A certification that the person seeking registration  
16 has a system in place to verify that only licensed or certified  
17 appraisers are used for federally related transactions;

18 (j) A certification that the person seeking registration  
19 has a system in place to require that appraisals are conducted  
20 independently and free from inappropriate influence and coercion as  
21 required by the appraisal independence standards established under  
22 section 129E of the federal Truth in Lending Act, as amended,  
23 including the requirements for payment of a reasonable and customary  
24 fee to appraisers when the appraisal management company is providing  
25 appraisal services for a consumer credit transaction secured by the

1 principal dwelling of a consumer;

2 (k) A certification that the person seeking registration  
3 maintains a detailed record of each request for appraisal services  
4 that it receives and the appraiser that performs the ~~residential real~~  
5 ~~estate appraisal~~ services for the appraisal management company;

6 (l) If the person seeking registration is a nonresident,  
7 an irrevocable consent for service of process, if required pursuant  
8 to section 76-3205; and

9 (m) Any other information required by the board which is  
10 reasonably necessary to implement, administer, and enforce the  
11 Nebraska Appraisal Management Company Registration Act.

12 ~~(3)~~ (2) An applicant for registration as an appraisal  
13 management company in this state shall submit to the board an  
14 application on a form or forms prescribed by the board.

15 ~~(4)~~ (3) An applicant for registration as an appraisal  
16 management company in this state shall furnish to the board, at the  
17 time of making application, a surety bond in the amount of twenty-  
18 five thousand dollars. The surety bond required under this subsection  
19 shall be issued by a bonding company or insurance company authorized  
20 to do business in this state, and a copy of the bond shall be filed  
21 with the board. The bond shall be in favor of the state for the  
22 benefit of any person who is damaged by any violation of the Nebraska  
23 Appraisal Management Company Registration Act. The bond shall also be  
24 in favor of any person damaged by such a violation. Any person  
25 claiming against the bond for a violation of the act may maintain an

1 action at law against the appraisal management company and against  
2 the surety. The aggregate liability of the surety to all persons  
3 damaged by a violation of the act by an appraisal management company  
4 shall not exceed the amount of the bond. The bond shall be maintained  
5 until one year after the date that the appraisal management company  
6 ceases operation in this state.

7 ~~(5)~~(4) A registration issued pursuant to the Nebraska  
8 Appraisal Management Company Registration Act shall be valid for two  
9 years after the date on which it is issued. An application for the  
10 renewal of a registration shall include substantially similar  
11 information required for the initial registration as provided in  
12 subsection ~~(2)~~(1) of this section.

13 Sec. 5. Section 76-3206, Revised Statutes Cumulative  
14 Supplement, 2012, is amended to read:

15 76-3206 The board shall charge and collect fees for its  
16 services under the Nebraska Appraisal Management Company Registration  
17 Act as follows:

18 (1) An application fee of no more than three hundred  
19 fifty dollars;

20 (2) ~~an~~An initial registration fee of no more than two  
21 thousand dollars;

22 (3) ~~a~~A renewal registration fee of no more than one  
23 thousand five hundred dollars; ~~and~~

24 (4) ~~a~~A late renewal fee of twenty-five dollars for each  
25 month or portion of a month the fee is late; and -

1                   (5) In addition to the fees set forth in this section,  
2 the board may establish and collect such fees as it deems appropriate  
3 for special examinations and other services provided by the board.  
4 All fees and other revenue collected pursuant to the Nebraska  
5 Appraisal Management Company Registration Act shall be remitted by  
6 the board to the State Treasurer for credit to the Appraisal  
7 Management Company Fund.

8                   Sec. 6. Section 76-3208, Revised Statutes Cumulative  
9 Supplement, 2012, is amended to read:

10                   76-3208 An appraisal management company or any person  
11 that applies to the board for a registration to do business in this  
12 state as an appraisal management company shall not:

13                   (1) Knowingly employ any individual to perform appraisal  
14 services who has had a ~~license or certificate~~ credential to act as an  
15 appraiser in this state or in any other state refused, denied,  
16 canceled, surrendered in lieu of revocation, or revoked within a ten-  
17 year period immediately preceding application for employment;

18                   (2) Knowingly enter into any independent contractor  
19 arrangement to perform appraisal services, whether in verbal,  
20 written, or other form, with any individual who has had a ~~license or~~  
21 ~~certificate~~ credential to act as an appraiser in this state or in any  
22 other state refused, denied, canceled, surrendered in lieu of  
23 revocation, or revoked within a ten-year period immediately preceding  
24 arrangement for contract; or

25                   (3) Knowingly prohibit an appraiser from including within

1 the body of an appraisal report that is submitted by the appraiser to  
2 the appraisal management company or its assignee the fee that the  
3 appraiser was paid by the appraisal management company for the  
4 performance of the appraisal report; or -

5 (4) Require a real property appraiser to indemnify an  
6 appraisal management company or hold an appraisal management company  
7 harmless for any liability, damage, loss, or claim arising out of the  
8 services provided by the appraisal management company.

9 Sec. 7. Section 76-3216, Revised Statutes Cumulative  
10 Supplement, 2012, is amended to read:

11 76-3216 (1) The board may, upon its own motion, and  
12 shall, upon the written complaint of any aggrieved person, cause an  
13 investigation to be made with respect to any alleged violation of the  
14 Nebraska Appraisal Management Company Registration Act. Upon receipt  
15 of information indicating that a person may have violated the act,  
16 the board shall make an investigation of the facts to determine  
17 whether or not there is evidence of a violation. If technical  
18 assistance is required, the board may contract with or use qualified  
19 individuals or companies.

20 (2) If an investigation indicates that a person may have  
21 violated a provision of the act, the board may offer the person an  
22 opportunity to voluntarily and informally discuss the alleged  
23 violation before the board. If an investigation indicates that a  
24 nonregistered person has violated the act, the board may issue a  
25 cease and desist order. The board may enter into consent agreements

1 or negotiate settlements with appraisal management companies and  
2 applicants. If an investigation indicates that an appraisal  
3 management company has violated the act, a formal complaint shall be  
4 prepared by the board and served upon the appraisal management  
5 company. The complaint shall require the appraisal management company  
6 to file an answer within thirty days after the date of service. In  
7 responding to a complaint, the appraisal management company may admit  
8 the allegations of the complaint, deny the allegations of the  
9 complaint, or plead otherwise. Failure to make a timely response  
10 shall be deemed an admission of the allegations of the complaint.  
11 Upon receipt of an answer to the complaint, the director or  
12 chairperson of the board shall set a date, time, and place for an  
13 administrative hearing on the complaint. The date of the hearing  
14 shall not be less than thirty nor more than one hundred twenty days  
15 from the date that the answer is filed unless such date is extended  
16 for good cause. Notice of the date, time, and place of the  
17 administrative hearing shall be satisfied by personal service on the  
18 controlling person of the company or agent for service of process in  
19 this state or by sending the notice by certified mail, return receipt  
20 requested, to the address of the controlling person of the company  
21 that is on file with the board.

22           ~~(1)-(3)~~ To the extent permitted by any applicable federal  
23 legislation or regulation, the board may censure an appraisal  
24 management company, conditionally or unconditionally suspend or  
25 revoke the registration issued to the appraisal management company

1 under the Nebraska Appraisal Management Company Registration Act,  
2 deny any application, issue a cease and desist order, or levy fines  
3 or impose civil penalties not to exceed five thousand dollars for a  
4 first offense and not to exceed ten thousand dollars for a second or  
5 subsequent offense, if the board determines that an appraisal  
6 management company is attempting to perform, has performed, or has  
7 attempted to perform any of the following:

8 (a) A material violation of the act;

9 (b) A violation of any rule or regulation adopted and  
10 promulgated by the board; ~~or~~

11 (c) Procurement of a registration for itself or any other  
12 person by fraud, misrepresentation, or deceit; ~~or~~

13 (d) Failure to demonstrate character and general fitness  
14 such as to command the confidence and trust of the public by an  
15 individual owning ten percent or more of an appraisal management  
16 company or an individual acting as a controlling person for an  
17 appraisal management company;

18 (e) Entry of a final civil or criminal judgment against  
19 an appraisal management company, including dismissal with settlement,  
20 on grounds of fraud, dishonesty, breach of trust, money laundering,  
21 misrepresentation, or deceit involving real estate, financial  
22 services, or in the making of an appraisal;

23 (f) Conviction, including a conviction based upon a plea  
24 of guilty or nolo contendere, of a crime which is related to the  
25 qualifications, functions, or duties of an appraisal management

1 company, by an individual owning ten percent or more of an appraisal  
2 management company or an individual acting as a controlling person  
3 for an appraisal management company;

4 (g) Making false or misleading statements, both written  
5 and verbal, to a real property appraiser concerning an assignment or  
6 fee;

7 (h) Suspension or revocation of a registration in any  
8 other jurisdiction;

9 (i) Failure to renew, or surrender of a registration in  
10 any other jurisdiction in lieu of disciplinary action pending or  
11 threatened;

12 (j) Failure to report disciplinary action taken against a  
13 registration in any other jurisdiction within sixty days after such  
14 action;

15 (k) Failure to comply with terms of a consent agreement  
16 or settlement agreement;

17 (l) Failure to submit or produce books, records,  
18 documents, work files, appraisal reports, or other materials  
19 requested by the board concerning any matter under investigation; or

20 (m) Engaging in business as an appraisal management  
21 company under a legal or trade name not on file with the board.

22 ~~(2)~~—(4) In order to promote voluntary compliance,  
23 encourage appraisal management companies to correct errors promptly,  
24 and ensure a fair and consistent approach to enforcement, the board  
25 shall endeavor to impose fines or civil penalties that are reasonable

1 in light of the nature, extent, and severity of the violation. The  
2 ~~board shall also take action against an appraisal management~~  
3 ~~company's registration only after less severe sanctions have proven~~  
4 ~~insufficient to ensure behavior consistent with the Nebraska~~  
5 ~~Appraisal Management Company Registration Act.~~ When deciding whether  
6 to impose a sanction permitted by subsection ~~(1)-(3)~~ of this section,  
7 determining the sanction that is most appropriate in a specific  
8 instance, or making any other discretionary decision regarding the  
9 enforcement of the act, the board shall consider whether an appraisal  
10 management company:

11 (a) Has an effective program reasonably designed to  
12 ensure compliance with the act;

13 (b) Has taken prompt and appropriate steps to correct and  
14 prevent the recurrence of any detected violations; and

15 (c) Has independently reported to the board any  
16 significant violations or potential violations of the act prior to an  
17 imminent threat of disclosure or investigation and within a  
18 reasonably prompt time after becoming aware of the occurrence of such  
19 violations.

20 Sec. 8. Section 76-3217, Revised Statutes Cumulative  
21 Supplement, 2012, is amended to read:

22 76-3217 (1) The administrative hearing on the allegations  
23 in the complaint filed pursuant to section 76-3216 shall be heard by  
24 a hearing officer at the time and place prescribed by the board and  
25 in accordance with the Administrative Procedure Act. If, at the

1 conclusion of the hearing, the hearing officer determines that the  
2 appraisal management company is guilty of the violation, the board  
3 shall take such disciplinary action as the board deems appropriate.  
4 Disciplinary actions which may be taken shall include, but not be  
5 limited to, revocation, suspension, probation, admonishment, letter  
6 of reprimand, and formal censure, with publication, of the appraisal  
7 management company. Costs incurred for an administrative hearing,  
8 including, but not limited to, fees of counsel, the hearing officer,  
9 court reporters, investigators, and witnesses, shall be taxed as  
10 costs in such action as the board may direct.

11 (2) The decision and order of the board shall be final.  
12 Any decision or order of the board may be appealed. The appeal shall  
13 be on questions of law only and otherwise shall be in accordance with  
14 the Administrative Procedure Act.

15 ~~(1) The board shall conduct disciplinary hearings for any~~  
16 ~~violation of the Nebraska Appraisal Management Company Registration~~  
17 ~~Act in accordance with the Administrative Procedure Act.~~

18 ~~(2) Before the board may censure, suspend, or revoke the~~  
19 ~~registration of, or levy a fine or civil penalty against, a~~  
20 ~~registered appraisal management company, the board shall notify the~~  
21 ~~company in writing of any charges made under the Nebraska Appraisal~~  
22 ~~Management Company Registration Act at least twenty days prior to the~~  
23 ~~date set for the hearing and shall permit the appraisal management~~  
24 ~~company an opportunity to be heard in person or by counsel. The~~  
25 ~~notice shall be satisfied by personal service on the controlling~~

1 ~~person of the company or agent for service of process in this state~~  
2 ~~or by sending the notice by certified mail, return receipt requested,~~  
3 ~~to the address of the controlling person of the company that is on~~  
4 ~~file with the board.~~

5 ~~(3) Any hearing pursuant to this section shall be heard~~  
6 ~~by a hearing officer at a time and place prescribed by the board. The~~  
7 ~~hearing officer may make findings of fact and shall deliver such~~  
8 ~~findings to the board. The board shall take such disciplinary action~~  
9 ~~as it deems appropriate, subject to the limitations contained within~~  
10 ~~section 76-3216.~~

11 Sec. 9. Section 76-3219, Revised Statutes Cumulative  
12 Supplement, 2012, is amended to read:

13 76-3219 The board shall collect all fees and other  
14 revenue pursuant to the Nebraska Appraisal Management Company  
15 Registration Act and shall remit such fees and revenue to the State  
16 Treasurer for credit to the Appraisal Management Company Fund, which  
17 is hereby created. The fund shall be used to implement, administer,  
18 and enforce the act and to meet the necessary expenditures of the  
19 board. The fund shall include a sufficient cash fund balance as  
20 determined by the board. The expense of administering and enforcing  
21 the act shall not exceed the money collected by the board under the  
22 act. Transfers may be made from the fund to the General Fund at the  
23 direction of the Legislature. Any transfer to the General Fund shall  
24 not exceed an amount that decreases the fund to an amount equal to or  
25 below the sufficient cash fund balance as determined by the board.

1 Any money in the fund available for investment shall be invested by  
2 the state investment officer pursuant to the Nebraska Capital  
3 Expansion Act and the Nebraska State Funds Investment Act.

4           Sec. 10. Original sections 76-3201, 76-3202, 76-3203,  
5 76-3206, 76-3208, 76-3216, 76-3217, and 76-3219, Revised Statutes  
6 Cumulative Supplement, 2012, are repealed.