

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1098.01 Duane Gall x4335

SENATE BILL 18-210

SENATE SPONSORSHIP

Tate,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF REAL ESTATE APPRAISAL
102 MANAGEMENT COMPANIES, AND, IN CONNECTION THEREWITH,
103 ALIGNING STATE LAW WITH CURRENT FEDERAL LAW AND
104 REGULATIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill amends the definition of "appraisal management company" to contain all of the elements specified in recent amendments to Title XI of the federal "Financial Institutions Reform,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Recovery, and Enforcement Act of 1989" (FIRREA) and regulations adopted in furtherance of FIRREA. Section 1 also adds a definition of "appraiser panel" to include appraisers working as independent contractors.

Section 2 requires the state board of real estate appraisers to maintain a separate list of appraisal management companies (AMCs) that have an appraiser panel larger than the federal jurisdictional threshold of 15 appraisers in Colorado or 25 appraisers in all states in which the company operates.

Section 3 directs the board to require that an AMC establish processes and controls to ensure compliance with the federal "Truth in Lending Act" and applicable federal regulations.

Section 4 directs the board to:

- ! Collect an annual registry fee from appraisal management companies that operate as subsidiaries of federally regulated financial institutions; and
- ! Transmit that fee to the federal financial institutions examinations council.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 12-61-702, **amend**
3 (2)(a); and **add** (10.5) as follows:

4 **12-61-702. Definitions.** As used in this part 7, unless the context
5 otherwise requires:

6 (2) (a) "Appraisal management company" OR "AMC" means, in
7 connection with valuing properties collateralizing mortgage loans or
8 mortgages incorporated into a securitization, any external third party
9 authorized either by a creditor in a consumer credit transaction secured by
10 a consumer's principal dwelling that oversees ~~a network or~~ AN APPRAISER
11 panel ~~of licensed or certified appraisers~~, or by an underwriter of, or other
12 principal in, the secondary mortgage markets that oversees ~~a network or~~
13 AN APPRAISER panel ~~of licensed or certified appraisers~~ TO:

14 (I) RECRUIT, SELECT, AND TRAIN APPRAISERS;

15 (II) CONTRACT WITH LICENSED AND CERTIFIED APPRAISERS TO

1 PERFORM APPRAISAL ASSIGNMENTS;
2 (III) MANAGE THE PROCESS OF HAVING AN APPRAISAL PERFORMED,
3 INCLUDING PROVIDING ADMINISTRATIVE DUTIES SUCH AS RECEIVING
4 APPRAISAL ORDERS AND APPRAISAL REPORTS, SUBMITTING COMPLETED
5 APPRAISAL REPORTS TO CREDITORS AND UNDERWRITERS, COLLECTING
6 FEES FROM CREDITORS AND UNDERWRITERS FOR SERVICES PROVIDED, AND
7 REIMBURSING APPRAISERS FOR SERVICES PERFORMED; OR

8 (IV) REVIEW AND VERIFY THE WORK OF APPRAISERS.

9 (10.5) (a) "PANEL" OR "APPRAISER PANEL" MEANS A NETWORK,
10 LIST, OR ROSTER OF LICENSED OR CERTIFIED APPRAISERS APPROVED BY AN
11 AMC TO PERFORM APPRAISALS AS INDEPENDENT CONTRACTORS FOR THE
12 AMC.

13 (b) APPRAISERS ON AN AMC'S APPRAISER PANEL INCLUDE BOTH:

14 (I) APPRAISERS ACCEPTED BY THE AMC FOR CONSIDERATION FOR
15 FUTURE APPRAISAL ASSIGNMENTS IN COVERED TRANSACTIONS OR FOR
16 SECONDARY MORTGAGE MARKET PARTICIPANTS IN CONNECTION WITH
17 COVERED TRANSACTIONS; AND

18 (II) APPRAISERS ENGAGED BY THE AMC TO PERFORM ONE OR
19 MORE APPRAISALS IN COVERED TRANSACTIONS OR FOR SECONDARY
20 MORTGAGE MARKET PARTICIPANTS IN CONNECTION WITH COVERED
21 TRANSACTIONS.

22 (c) AN APPRAISER IS AN INDEPENDENT CONTRACTOR FOR PURPOSES
23 OF THIS SUBSECTION (10.5) IF THE APPRAISER IS TREATED AS AN
24 INDEPENDENT CONTRACTOR BY THE AMC FOR PURPOSES OF FEDERAL
25 INCOME TAXATION.

26 **SECTION 2.** In Colorado Revised Statutes, 12-61-704, **add**
27 (1)(a)(IV) as follows:

1 **12-61-704. Powers and duties of the board - rules.** (1) In
2 addition to all other powers and duties imposed upon it by law, the board
3 has the following powers and duties:

4 (a) (IV) IN ANY LIST OR REGISTRY IT MAINTAINS, THE BOARD
5 SHALL IDENTIFY OR SEPARATELY ACCOUNT FOR ANY APPRAISAL
6 MANAGEMENT COMPANY THAT OVERSEES A PANEL OF MORE THAN FIFTEEN
7 CERTIFIED OR LICENSED APPRAISERS IN COLORADO, OR MORE THAN
8 TWENTY-FIVE IN ALL STATES IN WHICH IT DOES BUSINESS, WITHIN A GIVEN
9 YEAR.

10 **SECTION 3.** In Colorado Revised Statutes, 12-61-714, **amend**
11 (1)(a) as follows:

12 **12-61-714. Appraisal management companies - prohibited**
13 **activities - grounds for disciplinary actions - procedures - rules.**

14 (1) The board, upon its own motion, may, and upon a complaint
15 submitted to the board in writing by any person, shall, investigate the
16 activities of a licensed appraisal management company; an appraiser
17 designated as a controlling appraiser by a partnership, limited liability
18 company, or corporation acting as an appraisal management company; or
19 a person or entity that assumes to act in that capacity within the state. The
20 board, upon finding a violation, may impose an administrative fine not to
21 exceed two thousand five hundred dollars for each separate offense;
22 censure a licensee; place the licensee on probation and set the terms of
23 probation; or temporarily suspend or permanently revoke a license, when
24 the licensee has performed, is performing, or is attempting to perform any
25 of the following acts:

26 (a) Failing to:

27 (I) Exercise due diligence when hiring or engaging a real estate

1 appraiser to ensure that the real estate appraiser is appropriately
2 credentialed by the board and competent to perform the assignment; AND

3 (II) IN THE CASE OF AN AMC, ESTABLISH AND COMPLY WITH
4 PROCESSES AND CONTROLS REASONABLY DESIGNED TO ENSURE THAT THE
5 AMC CONDUCTS ITS APPRAISAL MANAGEMENT SERVICES IN ACCORDANCE
6 WITH THE REQUIREMENTS OF THE FEDERAL "TRUTH IN LENDING ACT", 15
7 U.S.C. SEC.1639e (a) TO (i), AND REGULATIONS ADOPTED PURSUANT TO
8 THAT ACT.

9 **SECTION 4.** In Colorado Revised Statutes, 12-61-720, **amend**
10 (1)(b) as follows:

11 **12-61-720. Duties of board under federal law.** (1) The board
12 shall:

13 (b) ~~Collect from individuals and appraisal management companies~~
14 ~~that are licensed or certified pursuant to this part 7~~ AND TRANSMIT, ON AN
15 ANNUAL BASIS, TO THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATIONS
16 COUNCIL an annual registry fee, as prescribed by the appraisal
17 subcommittee of the federal financial institutions examinations council
18 or its successor entity, ~~and transmit the fee to the federal financial~~
19 ~~institutions examinations council on an annual basis~~ FROM THE
20 FOLLOWING INDIVIDUALS AND ENTITIES:

21 (I) INDIVIDUALS AND APPRAISAL MANAGEMENT COMPANIES THAT
22 ARE LICENSED OR CERTIFIED PURSUANT TO THIS PART 7; AND

23 (II) APPRAISAL MANAGEMENT COMPANIES THAT OPERATE AS
24 SUBSIDIARIES OF FEDERALLY REGULATED FINANCIAL INSTITUTIONS; and

25 **SECTION 5. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2018 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.