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SENATE BILL 18-210

BY SENATOR(S) Tate, Martinez Humenik;
also REPRESENTATIVE(S) Arndt and Hooton.

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

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

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) RECRUIT, SELECT, AND TRAIN APPRAISERS;

(II) CONTRACT WITH LICENSED AND CERTIFIED APPRAISERS TO PERFORM APPRAISAL ASSIGNMENTS;

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

(IV) REVIEW AND VERIFY THE WORK OF APPRAISERS.

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

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

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

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

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

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

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

following powers and duties:

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

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

12-61-714. Appraisal management companies - prohibited activities - grounds for disciplinary actions - procedures - rules. (1) The board, upon its own motion, may, and upon a complaint submitted to the board in writing by any person, shall, investigate the activities of a licensed appraisal management company; an appraiser designated as a controlling appraiser by a partnership, limited liability company, or corporation acting as an appraisal management company; or a person or entity that assumes to act in that capacity within the state. The board, upon finding a violation, may impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense; censure a licensee; place the licensee on probation and set the terms of probation; or temporarily suspend or permanently revoke a license, when the licensee has performed, is performing, or is attempting to perform any of the following acts:

(a) Failing to:

(I) Exercise due diligence when hiring or engaging a real estate appraiser to ensure that the real estate appraiser is appropriately credentialed by the board and competent to perform the assignment; AND

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

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

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

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

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

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

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018

and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO