

Introduced by Senator CalderonFebruary 24, 2009

An act to amend Sections 11302, 11314, 11315, 11315.5, 11316, 11318, 11319, 11328, 11409, and 11422 of, to add Sections 11320.5, 11345, 11345.1, 11345.2, 11345.3, 11345.4, 11345.45, 11345.5, 11345.6, and 11406.5 to, and to repeal and add Section 11343 of, the Business and Professions Code, and to amend Section 1090.5 of the Civil Code, relating to real estate appraisers, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 237, as introduced, Calderon. Real estate appraisers.

Existing law, the Real Estate Appraisers' Licensing and Certification Law, provides for the licensure and regulation of real estate appraisers and vests the duty of enforcing and administering that law in the Office of Real Estate Appraisers. Fees and assessments collected under these provisions are deposited into the Real Estate Appraisers Regulation Fund, and 5% of the amount of any license or certificate fee collected is credited to the Recovery Account in that fund, which account is continuously appropriated.

This bill would require appraisal management companies, as defined, to register with the Office of Real Estate Appraisers, and would subject those entities to the provisions of the Real Estate Appraisers' Licensing and Certification Law. The bill would require the office to adopt regulations governing the implementation of the registration process, with specified minimum requirements, and establish the fees to be imposed for registration in an amount sufficient to cover the costs incurred by the office in administering the registration. Because of 5% of those fees would be credited to the Recovery Account, a continuously

appropriated fund, the bill would make an appropriation. The bill would also require the fingerprinting of 10% owners and any controlling person of an applicant for registration with the Department of Justice, and would require the department to charge all applicants for licensure or registration specified fees for that fingerprinting. The bill would also set forth standards with which an appraisal management company would need to comply. The bill would make conforming changes within other provisions of the Real Estate Appraisers' Licensing and Certification Law to incorporate the changes made by this bill.

Existing law prohibits a person with an interest in a real estate transaction involving an appraisal to improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

This bill would enumerate specified prohibited acts under that provision, including, but not limited to, withholding or threatening to withhold timely payment for an appraisal, or requesting the payment of compensation to achieve higher priority in the assignment of appraisal business. The bill would also provide that a violation of those prohibited acts by an appraisal management company constitutes a violation of the Real Estate Appraisers' Licensing and Certification Law.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11302 of the Business and Professions
2 Code is amended to read:
3 11302. For the purpose of applying this part, the following
4 terms, unless otherwise expressly indicated, shall mean and have
5 the following definitions:
6 (a) "Agency" means the Business, Transportation and Housing
7 Agency.
8 (b) "Appraisal" means a written statement independently and
9 impartially prepared by a qualified appraiser setting forth an
10 opinion in a federally related transaction as to the market value of
11 an adequately described property as of a specific date, supported
12 by the presentation and analysis of relevant market information.
13 The term "appraisal" does not include an opinion given by a real
14 estate licensee or engineer or land surveyor in the ordinary course

1 of his or her business in connection with a function for which a
2 license is required under Chapter 7 (commencing with Section
3 6700) or Chapter 15 (commencing with Section 8700) of Division
4 3, or Chapter 3 (commencing with Section 10130) or Chapter 7
5 (commencing with Section 10500) and the opinion shall not be
6 referred to as an appraisal. This part does not apply to a probate
7 referee acting pursuant to Sections 400 to 408, inclusive, of the
8 Probate Code unless the appraised transaction is federally related.

9 (c) “Appraisal Foundation” means the Appraisal Foundation
10 that was incorporated as an Illinois not-for-profit corporation on
11 November 30, 1987.

12 (d) (1) *“Appraisal management company” means any person*
13 *or entity that does one or more of the following:*

14 (A) *Administers networks of independent contractor appraisers*
15 *to perform appraisals for clients.*

16 (B) *Receives requests for appraisals from one or more clients*
17 *and, for a fee paid by a client, enters into an agreement with one*
18 *or more independent appraisers to complete the appraisals*
19 *contained in the request.*

20 (C) *Otherwise serves as a third-party broker of appraisals*
21 *between clients and appraisers.*

22 (2) *“Appraisal management company” does not include any of*
23 *the following, when that person or entity directly contracts with*
24 *an independent appraiser:*

25 (A) *Any bank, credit union, trust company, savings and loan*
26 *association, or industrial loan company doing business under the*
27 *authority of, or in accordance with, a license, certificate, or charter*
28 *issued by the United States or any state, district, territory, or*
29 *commonwealth of the United States that is authorized to transact*
30 *business in this state.*

31 (B) *Any finance lender or finance broker licensed pursuant to*
32 *Division 9 (commencing with Section 22000) of the Financial*
33 *Code, when acting under the authority of that license.*

34 (C) *Any residential mortgage lender or residential mortgage*
35 *servicer licensed pursuant to Division 20 (commencing with Section*
36 *50000) of the Financial Code, when acting under the authority of*
37 *that license.*

38 (D) *Any real estate broker licensed pursuant to Part 1*
39 *(commencing with Section 10000) of Division 4 of the Business*

1 *and Professions Code, when acting under the authority of that*
2 *license.*

3 (3) *“Appraisal management company” does not include a*
4 *person or entity that does one or more of the following:*

5 (A) *Exclusively delegates appraisal assignments to appraisers*
6 *or trainees as employees rather than independent contractors, and*
7 *is responsible for ensuring that employees complete appraisal*
8 *assignments in accordance with the Uniform Standards of*
9 *Professional Appraisal Practice.*

10 (B) *Contracts with independent appraisers acting as independent*
11 *contractors for the completion of appraisal assignments that the*
12 *person or entity cannot complete for any reason, including*
13 *competency, workload, scheduling, or geographic location.*

14 (C) *Contracts with independent appraisers acting as*
15 *independent contractors for the completion of real estate appraisal*
16 *assignments and, upon the completion of those assignments,*
17 *cosigns the appraisal reports with the independent contractor*
18 *appraisers.*

19 ~~(d)~~

20 (e) *“Appraisal Subcommittee” means the Appraisal*
21 *Subcommittee of the Federal Financial Institutions Examination*
22 *Council.*

23 (f) *“Controlling person” means one or more of the following:*

24 (1) *An owner, officer, or director of an appraisal management*
25 *company.*

26 (2) *An individual employed, appointed, or authorized by an*
27 *appraisal management company that has the authority to enter*
28 *into a contractual relationship with clients for the performance of*
29 *appraisal services and that has the authority to enter into*
30 *agreements with independent appraisers for the completion of*
31 *appraisals.*

32 (3) *An individual who possesses, directly or indirectly, the power*
33 *to direct or cause the direction of the management or policies of*
34 *an appraisal management company.*

35 ~~(e)~~

36 (g) *“Director” means the Director of the Office of Real Estate*
37 *Appraisers.*

38 ~~(f)~~

39 (h) *“Federal financial institutions regulatory agency” means the*
40 *Federal Reserve Board, Federal Deposit Insurance Corporation,*

1 Office of the Comptroller of the Currency, Office of Thrift
2 Supervision, Federal Home Loan Bank System, National Credit
3 Union Administration, the Resolution Trust Corporation, and any
4 other agency determined by the director to have jurisdiction over
5 transactions subject to this part.

6 ~~(g)~~

7 (i) “Federally related real estate appraisal activity” means the
8 act or process of making or performing an appraisal on real estate
9 or real property in a federally related transaction and preparing an
10 appraisal as a result of that activity.

11 ~~(h)~~

12 (j) “Federally related transaction” means any real estate-related
13 financial transaction which a federal financial institutions
14 regulatory agency engages in, contracts for or regulates and which
15 requires the services of a state licensed real estate appraiser
16 regulated by this part. This term also includes any transaction
17 identified as such by a federal financial institutions regulatory
18 agency.

19 ~~(i)~~

20 (k) “License” means any license, certificate, permit, registration,
21 or other means issued by the office authorizing the person to whom
22 it is issued to act pursuant to this part within this state.

23 ~~(j)~~

24 (l) “Licensure” means the procedures and requirements a person
25 shall comply with in order to qualify for issuance of a license and
26 includes the issuance of the license.

27 ~~(k)~~

28 (m) “Office” means the Office of Real Estate Appraisers.

29 ~~(l)~~

30 (n) “Registration” means the procedures and requirements with
31 which a person or entity shall comply in order to qualify to conduct
32 business as an appraisal management company.

33 (o) “Secretary” means the Secretary of ~~the~~ Business,
34 Transportation and Housing Agency.

35 ~~(m)~~

36 (p) “State licensed real estate appraiser” is a person who is
37 issued and holds a current valid license under this part.

38 ~~(n)~~

1 (q) “Uniform Standards of Professional Appraisal Practice” are
2 the standards of professional appraisal practice established by the
3 Appraisal Foundation.

4 ~~(o)~~

5 (r) “Course provider” means a person or entity that provides
6 educational courses related to professional appraisal practice.

7 SEC. 2. Section 11314 of the Business and Professions Code
8 is amended to read:

9 11314. The office is required to include in its regulations
10 requirements for licensure and discipline of real estate appraisers
11 that ensure protection of the public interest and comply in all
12 respects with Title XI of the Financial Institutions Reform,
13 Recovery and Enforcement Act of 1989, Public Law 101-73 and
14 any subsequent amendments thereto. Requirements for each level
15 of licensure shall, at a minimum, meet the criteria established by
16 the Appraiser Qualification Board of the Appraisal Foundation.
17 *The office may additionally include in its regulations requirements*
18 *for the registration of appraisal management companies.*

19 SEC. 3. Section 11315 of the Business and Professions Code
20 is amended to read:

21 11315. (a) The director may issue to a licensee, applicant for
22 licensure, person who acts in a capacity that requires a license
23 under this part, *registrant, applicant for a certificate of registration,*
24 *course provider, applicant for course provider accreditation, or a*
25 *person who, or entity that, acts in a capacity that requires course*
26 *provider accreditation a citation that may contain an order to pay*
27 *an administrative fine assessed by the office if the person or entity*
28 *is in violation of this part or any regulations adopted to carry out*
29 *its purposes.*

30 (b) A citation shall be written and describe with particularity
31 the nature of the violation, including a specific reference to the
32 provision of law determined to have been violated.

33 (c) If appropriate, the citation may contain an order of abatement
34 fixing a reasonable time for abatement of the violation.

35 (d) (1) If appropriate, the citation may contain an order *directing*
36 *a licensee, registrant, or one or more employees of a registrant to*
37 *enroll in and successfully complete additional basic or continuing*
38 *education courses.*

39 (2) When a citation imposes an education course or courses, the
40 completion of the course or courses by the licensee, *registrant, or*

1 *employee of a registrant* shall be subject to the following
2 conditions:

3 (A) The citation imposing the education requirement may
4 specify the specific course content, the number of hours to be
5 completed, the date by which the course is to be completed, and
6 the method by which satisfaction of the order is to be reported to
7 the office.

8 (B) An education course imposed by citation may not be credited
9 towards the licensee's continuing education requirements pursuant
10 to Section 11360.

11 (C) Only courses accredited by the office shall be accepted for
12 purposes of fulfilling education imposed by citation.

13 (D) Any failure to satisfactorily complete or timely report an
14 education course to the office by the date specified in the citation
15 shall result in the automatic suspension of the licensee's real estate
16 appraiser license *or the registrant's certificate of registration* as
17 of that date.

18 (E) Reinstatement of a license *or registration* suspended
19 pursuant to subparagraph (D) shall be made only if all of the
20 following events occur:

21 (i) Satisfactory verification of the completion of the education
22 course or courses imposed by the citation.

23 (ii) Completion and filing of a reinstatement application.

24 (iii) Payment of all applicable fees, fines, or penalties.

25 (e) In no event shall an administrative fine assessed by the office
26 by citation or order exceed ten thousand dollars (\$10,000) per
27 violation. In assessing a fine, the office shall give due consideration
28 to the appropriateness of the amount of the fine with respect to
29 factors such as the gravity of the violation, the good faith of the
30 person who committed the violation, and the history of previous
31 violations.

32 (f) A citation or fine assessment issued pursuant to a citation
33 shall inform the person cited that, if he or she desires a hearing to
34 contest the finding of a violation, he or she must request a hearing
35 by written notice to the office within 30 days of the date of issuance
36 of the citation or assessment. Hearings shall be held pursuant to
37 Chapter 5 (commencing with Section 11500) of Part 1 of Division
38 3 of Title 2 of the Government Code. The citation or fine
39 assessment shall also inform the person cited that failure to respond
40 to the citation or fine assessment shall result in any order or

1 administrative fine imposed becoming final, and that any order or
2 administrative fine shall constitute an enforceable civil judgment
3 in addition to any other penalty or remedy available pursuant to
4 law.

5 (g) (1) If a licensee, applicant for licensure, person who acts
6 in a capacity that requires a license under this part, *registrant*,
7 *applicant for a certificate of registration*, course provider, applicant
8 for course provider accreditation, or a person who, or entity that,
9 acts in a capacity that requires course provider accreditation fails
10 to pay a fine, penalty, or required installment payment on the fine
11 or penalty by the date when it is due, the director shall charge him
12 or her interest and a penalty of 10 percent of the fine or installment
13 payment amount. Interest shall be charged at the pooled money
14 investment rate.

15 (2) Failure of a licensee, applicant for licensure, person who
16 acts in a capacity that requires a license under this part, *registrant*,
17 *applicant for a certificate of registration*, course provider, applicant
18 for course provider accreditation, or a person who, or entity that,
19 acts in a capacity that requires course provider accreditation to pay
20 a fine or required installment payment on the fine within 30 days
21 of the date ordered in the citation, unless the citation is being
22 appealed, shall be cause for additional disciplinary action by the
23 office.

24 (3) If a citation is not contested and a fine or fine payment is
25 not paid within 30 days of the date ordered in the citation or other
26 order of the director, the full amount of the unpaid balance of the
27 assessed fine shall be added to any fee for renewal of a license *or*
28 *a certificate of registration*. A license *or a certificate of registration*
29 shall not be renewed prior to payment of the renewal fee and fine.

30 (4) The director may order the full amount of any fine to be
31 immediately due and payable if any payment due on a fine is not
32 received by the office within 30 days of its due date.

33 (5) Any fine, or interest thereon, not paid within 30 days of a
34 final citation or order shall constitute a valid and enforceable civil
35 judgment.

36 (6) A certified copy of the final order, or the citation with
37 certification by the office that no request for hearing was received
38 within 30 days of the date of issuance of the citation, shall be
39 conclusive proof of the civil judgment, its terms, and its validity.

1 (h) A citation may be issued without the assessment of an
2 administrative fine.

3 (i) Any administrative fine or penalty imposed pursuant to this
4 section shall be in addition to any other criminal or civil penalty
5 provided for by law.

6 (j) Administrative fines collected pursuant to this section shall
7 be deposited in the Real Estate Appraisers Regulation Fund.

8 SEC. 4. Section 11315.5 of the Business and Professions Code
9 is amended to read:

10 11315.5. Notwithstanding any other provision of law, the office
11 may, at any time the director deems it to be in the public interest,
12 enter into a settlement of any administrative allegation of violation
13 of this part, or of regulations promulgated pursuant thereto, upon
14 any terms and conditions as the director deems appropriate. Those
15 settlements may include, but are not limited to, a plan for abatement
16 of the violation or rehabilitation or requalification of the applicant,
17 licensed appraiser, course provider, *registrant*, or person acting in
18 a capacity requiring a license or course provider accreditation
19 within a specified time.

20 SEC. 5. Section 11316 of the Business and Professions Code
21 is amended to read:

22 11316. (a) The director may assess a fine against a licensee,
23 applicant for licensure, person who acts in a capacity that requires
24 a license under this part, *registrant*, *applicant for a certificate of*
25 *registration*, course provider, applicant for course provider
26 accreditation, or a person who, or entity that, acts in a capacity
27 that requires course provider accreditation for violation of this part
28 or any regulations adopted to carry out its purposes.

29 (b) (1) Failure of a licensee, applicant for licensure, person who
30 acts in a capacity that requires a license under this part, *registrant*,
31 *applicant for a certificate of registration*, course provider, applicant
32 for course provider accreditation, or a person who, or entity that,
33 acts in a capacity that requires course provider accreditation to pay
34 a fine or make a fine payment within 30 days of the date of
35 assessment shall result in disciplinary action by the office. If a
36 licensee, applicant for licensure, person who acts in a capacity that
37 requires a license under this part, *registrant*, *applicant for a*
38 *certificate of registration*, course provider, applicant for course
39 provider accreditation, or a person who, or entity that, acts in a
40 capacity that requires course provider accreditation fails to pay a

1 fine within 30 days, the director shall charge him or her interest
2 and a penalty of 10 percent of the fine or payment amount. Interest
3 shall be charged at the pooled money investment rate.

4 (2) If a fine is not paid, the full amount of the assessed fine shall
5 be added to any fee for renewal of a license *or a certificate of*
6 *registration*. A license *or a certificate of registration* shall not be
7 renewed prior to payment of the renewal fee and fine.

8 (3) The director may order the full amount of any fine to be
9 immediately due and payable if any payment on the fine, or portion
10 thereof, is not received within 30 days of its due date.

11 (4) Any fine, or interest thereon, not paid within 30 days of a
12 final order shall constitute a valid and enforceable civil judgment.

13 (5) A certified copy of the final order shall be conclusive proof
14 of the validity of the order of payment and the terms of payment.

15 (c) Any administrative fine or penalty imposed pursuant to this
16 section shall be in addition to any other criminal or civil penalty
17 provided for by law.

18 (d) Administrative fines collected pursuant to this section shall
19 be deposited in the Real Estate Appraisers Regulation Fund.

20 SEC. 6. Section 11318 of the Business and Professions Code
21 is amended to read:

22 11318. (a) A licensee, applicant for licensure, *controlling*
23 *person of a registrant, applicant as controlling person of a*
24 *registrant, course provider, or applicant for course provider*
25 accreditation shall report to the office, in writing, the occurrence
26 of any of the following events within 30 days of the date he or she
27 has knowledge of any of these events:

28 (1) The conviction of the licensee, applicant for licensure,
29 *controlling person of a registrant, applicant as controlling person*
30 *of a registrant, course provider, or applicant for course provider*
31 accreditation of any of the following:

32 (A) A felony.

33 (B) Any crime related to the qualifications, functions, or duties
34 of a licensee *or registrant*, or to acts or activities committed in the
35 course of the licensee's, *registrant's*, or course provider's practice.

36 As used in this section, a conviction includes an initial plea,
37 verdict, or finding of guilty, plea of no contest, or pronouncement
38 of sentence by a trial court even though that conviction may not
39 be final, the sentence may not be imposed, or all appeals may not
40 be exhausted.

1 (2) The cancellation, revocation, or suspension of a license,
2 other authority to practice, or refusal to renew a license or other
3 authority to practice as an occupational or professional licensee
4 or course provider, by any other regulatory entity.

5 (3) The cancellation, revocation, or suspension of the right to
6 practice before any governmental body or agency.

7 (b) The report required by subdivision (a) shall be signed by
8 the licensee, applicant for licensure, *controlling person of a*
9 *registrant*, course provider, or applicant for course provider
10 accreditation and clearly set forth the facts that constitute the
11 reportable event. The report shall include the title of the matter,
12 court or agency name, docket number, and dates of occurrence of
13 the reportable event.

14 (c) The licensee, applicant for licensure, *controlling person of*
15 *a registrant*, course provider, or applicant for course provider
16 accreditation shall also promptly obtain and submit a certified copy
17 of the police or administrative agency's investigative report and
18 certified copies of the court or administrative agency's docket,
19 complaint or accusation, and judgment or other order.

20 (d) A licensee, applicant for licensure, *registrant*, course
21 provider, or applicant for course provider accreditation shall
22 promptly respond to oral or written inquiries from the office
23 concerning the reportable events.

24 SEC. 7. Section 11319 of the Business and Professions Code
25 is amended to read:

26 11319. Notwithstanding any other provision of this code, the
27 Uniform Standards of Professional Appraisal Practice constitute
28 the minimum standard of conduct and performance for a licensee
29 *or registrant* in any work or service performed that is addressed
30 by those standards. If a licensee also is certified by the Board of
31 Equalization, he or she shall follow the standards established by
32 the Board of Equalization when fulfilling his or her responsibilities
33 for assessment purposes.

34 SEC. 8. Section 11320.5 is added to the Business and
35 Professions Code, to read:

36 11320.5. No person or entity shall act in the capacity of an
37 appraisal management company without first obtaining a certificate
38 of registration from the office.

39 SEC. 9. Section 11328 of the Business and Professions Code
40 is amended to read:

1 11328. To substantiate documentation of appraisal experience,
2 or to facilitate the investigation of illegal or unethical activities by
3 a licensee, applicant, *registrant*, or other person acting in a capacity
4 that requires a license *or certificate of registration*, that licensee,
5 applicant, *registrant*, or person shall, upon the request of the
6 director, submit copies of appraisals, or any work product which
7 is addressed by the Uniform Standards of Professional Appraisal
8 Practice, and all supporting documentation and data to the office.
9 This material shall be confidential in accordance with the
10 confidentiality provisions of the Uniform Standards of Professional
11 Appraisal Practice.

12 SEC. 10. Section 11343 of the Business and Professions Code
13 is repealed.

14 ~~11343. (a) Each applicant for a license shall submit two~~
15 ~~completed fingerprint cards.~~

16 ~~(b) The fingerprint cards shall be used for the purpose of a~~
17 ~~criminal records check of applicants and licensees through state~~
18 ~~and federal law enforcement authorities.~~

19 ~~(c) Results of any records check by federal law enforcement~~
20 ~~authorities shall not be released except in accordance with federal~~
21 ~~requirements.~~

22 SEC. 11. Section 11343 is added to the Business and
23 Professions Code, to read:

24 11343. (a) The office shall submit to the Department of Justice
25 fingerprint images and related information required by the
26 Department of Justice of all real estate appraiser license applicants
27 and each 10 percent owner and controlling person of each applicant
28 for registration as an appraisal management company, for the
29 purposes of obtaining information as to the existence and content
30 of a record of state or federal convictions and state or federal arrests
31 and also information as to the existence and content of a record of
32 state or federal arrests for which the Department of Justice
33 establishes that the person is free on bail or on his or her own
34 recognizance pending trial or appeal.

35 (b) When received, the Department of Justice shall forward to
36 the Federal Bureau of Investigation requests for federal summary
37 criminal history information received pursuant to this section. The
38 Department of Justice shall review the information returned from
39 the Federal Bureau of Investigation and compile and disseminate
40 a response to the office.

1 (c) The Department of Justice shall provide a response to the
2 office pursuant to paragraph (1) of subdivision (p) of Section 11105
3 of the Penal Code.

4 (d) The office shall request from the Department of Justice
5 subsequent arrest notification service, as provided pursuant to
6 Section 11105.2 of the Penal Code, for persons described in
7 subdivision (a).

8 (e) The Department of Justice shall charge a fee sufficient to
9 cover the cost of processing the request described in this section.

10 SEC. 12. Section 11345 is added to the Business and
11 Professions Code, to read:

12 11345. The director shall adopt regulations governing the
13 process and procedure of applying for registration as an appraisal
14 management company. Applications for a certificate of registration
15 shall require, at a minimum, all of the following:

16 (a) The name of the person or entity seeking registration.

17 (b) The business address and telephone number of the person
18 or entity seeking registration.

19 (c) If the applicant is not a person or entity domiciled in this
20 state, the name and contact number of a person or entity acting as
21 agent for service of process in this state, along with an irrevocable
22 consent to service of process in favor of the office.

23 (d) Designation of a controlling person for the applicant who
24 possesses the authority to enter into contractual relationships with
25 clients on behalf of the applicant, direct the management and
26 policies of the applicant, and respond to inquiries from the office.

27 (e) If the applicant is an entity, the name, address, and contact
28 information for any person or entity owning 10 percent or more
29 of the applicant.

30 (f) Evidence in a form prescribed by the office that the applicant
31 has established systems to ensure compliance with Section 11345.3.

32 SEC. 13. Section 11345.1 is added to the Business and
33 Professions Code, to read:

34 11345.1. A certificate of registration as an appraisal
35 management company shall be valid for a period of two years,
36 unless otherwise extended or limited by the director.

37 SEC. 14. Section 11345.2 is added to the Business and
38 Professions Code, to read:

1 11345.2. No person may own 10 percent or more of a registrant
2 or applicant for registration, nor act as a controlling person for a
3 registrant or applicant for registration if any of the following apply:

4 (a) The person has been convicted of a felony, or misdemeanor
5 substantially related to the activities of an appraiser or appraisal
6 management company.

7 (b) The person has had a license or certificate as an appraiser
8 refused, denied, canceled, or revoked in this state or any other
9 state.

10 SEC. 15. Section 11345.3 is added to the Business and
11 Professions Code, to read:

12 11345.3. The director may not issue a certificate of registration
13 to an appraisal management company unless the appraisal
14 management company demonstrates, to the satisfaction of the
15 director, that it has established systems to do all of the following:

16 (a) Ensure that independent contractor appraisers contracted by
17 the applicant possess all required licenses and certificates from
18 the office.

19 (b) Review the work of all independent contractor appraisers
20 contracted by the applicant to ensure that appraisal services are
21 performed in accordance with the Uniform Standards of
22 Professional Appraisal Practice.

23 (c) Maintain a detailed record of each service request and the
24 independent appraiser selected for the assignment.

25 SEC. 16. Section 11345.4 is added to the Business and
26 Professions Code, to read:

27 11345.4. No person or entity acting in the capacity of an
28 appraisal management company shall improperly influence or
29 attempt to improperly influence the development, reporting, result,
30 or review of any appraisal. Examples of prohibited acts include,
31 but are not limited to, the following:

32 (a) Withholding or threatening to withhold timely payment for
33 an appraisal.

34 (b) Withholding or threatening to withhold future business for
35 an independent appraiser, including removal from approved panels
36 of appraisers.

37 (c) Expressly or impliedly promising future business,
38 promotions, or increased compensation for an independent
39 appraiser.

1 (d) Conditioning the request for an appraisal service or the
2 payment of an appraisal fee or salary or bonus on the opinion,
3 conclusion, or valuation in an appraisal report, or on a preliminary
4 estimate or opinion requested from an independent appraiser.

5 (e) Requesting the payment of compensation to achieve higher
6 priority in the assignment of appraisal business.

7 (f) Requesting that an appraiser provide an estimated,
8 predetermined, or desired valuation in an appraisal report, or
9 providing to an appraiser an anticipated, estimated, encouraged,
10 or desired valuation in an appraisal report.

11 SEC. 17. Section 11345.45 is added to the Business and
12 Professions Code, to read:

13 11345.45. A person or entity may not structure an appraisal
14 assignment or a contract with an independent appraiser for the
15 purpose of evading the provisions of this part relating to appraisal
16 management companies.

17 SEC. 18. Section 11345.5 is added to the Business and
18 Professions Code, to read:

19 11345.5. A violation of Section 1090.5 of the Civil Code by a
20 person or entity acting in the capacity of an appraisal management
21 company is a violation of this part.

22 SEC. 19. Section 11345.6 is added to the Business and
23 Professions Code, to read:

24 11345.6. No registered appraisal management company may
25 alter, modify, or otherwise change a completed appraisal report
26 submitted by an independent appraiser.

27 SEC. 20. Section 11406.5 is added to the Business and
28 Professions Code, to read:

29 11406.5. The director shall, by regulation, establish the fees
30 to be imposed on appraisal management companies. The fees shall
31 be sufficient to cover the costs incurred by the office in
32 administering the changes to this part made by the act adding this
33 section.

34 SEC. 21. Section 11409 of the Business and Professions Code
35 is amended to read:

36 11409. (a) Except as otherwise provided by law, any order
37 issued in resolution of a disciplinary proceeding may direct a
38 licensee, applicant for licensure, person who acts in a capacity that
39 requires a license under this part, *registrant*, *applicant for a*
40 *certificate of registration*, course provider, applicant for course

1 provider accreditation, or a person who, or entity that, acts in a
2 capacity that requires course provider accreditation found to have
3 committed a violation or violations of statutes or regulations
4 relating to real estate appraiser practice to pay a sum not to exceed
5 the reasonable costs of investigation, enforcement, and prosecution
6 of the case.

7 (b) Where an order for recovery of costs is made and payment
8 is not made within 30 days of the date directed in the office's
9 decision, the order for recovery shall constitute a valid and
10 enforceable civil judgment. This judgment shall be in addition to,
11 and not in place of, any other criminal or civil penalties provided
12 for by law.

13 (c) (1) Failure of a licensee, applicant for licensure, person who
14 acts in a capacity that requires a license under this part, *registrant*,
15 *applicant for a certificate of registration*, course provider, applicant
16 for course provider accreditation, or a person who, or entity that,
17 acts in a capacity that requires course provider accreditation to pay
18 recovery costs or make a recovery cost payment within 30 days
19 of the date ordered, shall result in disciplinary action by the office.
20 If the person fails to pay recovery costs within 30 days, that person
21 shall pay interest and a penalty of 10 percent of the recovery costs
22 or payment amount. Interest shall be charged at the pooled money
23 investment rate.

24 (2) If recovery costs are not paid as ordered, the full amount of
25 the assessed fine shall be added to any fee for renewal of a license
26 *or a certificate of registration*. A license *or a certificate of*
27 *registration* shall not be renewed prior to payment of the renewal
28 fee and recovery costs.

29 (3) The director may order the full amount of any recovery costs
30 to be immediately due and payable if any payment on the recovery
31 costs, or portion thereof, is not received within 30 days of its due
32 date.

33 (4) Any recovery costs, or interest thereon, not paid within 30
34 days of a final order shall constitute a valid and enforceable civil
35 judgment.

36 (d) A certified copy of the office's decision shall be conclusive
37 proof of the validity of the order and its terms.

38 (e) The office shall not renew or reinstate the license of any
39 licensee *or the certificate of registration of any registrant* who has
40 failed to pay all of the costs ordered under this section.

1 (f) Nothing in this section shall preclude the office from
2 including the recovery of the costs of investigation and enforcement
3 of a case in any default decision or stipulated settlement.

4 SEC. 22. Section 11422 of the Business and Professions Code
5 is amended to read:

6 11422. The office shall, on or before February 1, 1994, and at
7 least annually thereafter, transmit to the appraisal subcommittee
8 specified in subdivision ~~(d)~~ (e) of Section 11302 a roster of persons
9 licensed pursuant to this part.

10 SEC. 23. Section 1090.5 of the Civil Code is amended to read:

11 1090.5. (a) No person with an interest in a real estate
12 transaction involving an appraisal shall improperly influence or
13 attempt to improperly influence, through coercion, extortion, or
14 bribery, the development, reporting, result, or review of a real
15 estate appraisal sought in connection with a mortgage loan.
16 *Examples of prohibited acts include, but are not limited to, the*
17 *following:*

18 (1) *Withholding or threatening to withhold timely payment for*
19 *an appraisal.*

20 (2) *Withholding or threatening to withhold future business for*
21 *an independent appraiser, including removal from approved panels*
22 *of appraisers.*

23 (3) *Expressly or impliedly promising future business,*
24 *promotions, or increased compensation for an independent*
25 *appraiser.*

26 (4) *Conditioning the request for an appraisal service or the*
27 *payment of an appraisal fee or salary or bonus on the opinion,*
28 *conclusion, or valuation in an appraisal report, or on a preliminary*
29 *estimate or opinion requested from an independent appraiser.*

30 (5) *Requesting the payment of compensation to achieve higher*
31 *priority in the assignment of appraisal business.*

32 (6) *Requesting that an appraiser provide an estimated,*
33 *predetermined, or desired valuation in an appraisal report, or*
34 *providing to an appraiser an anticipated, estimated, encouraged,*
35 *or desired valuation in an appraisal report.*

36 (b) Subdivision (a) does not prohibit a person with an interest
37 in a real estate transaction from asking an appraiser to do any of
38 the following:

39 (1) Consider additional, appropriate property information.

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

3 (3) Correct errors in the appraisal report.

4 (c) If a person who violates this section is licensed *or registered*
5 under any state licensing *or registration* law and the violation
6 occurs within the course and scope of the person's duties as a
7 licensee *or registrant*, the violation shall be deemed a violation of
8 that ~~state licensing~~ law.

9 (d) Nothing in this section shall be construed to authorize
10 communications that are otherwise prohibited under existing law.