

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 237

Introduced by Senator Calderon

February 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 amended, 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 and background checks by the Department of Justice~~ 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 those services~~. 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~~ the 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, *and specifies that a violation of this provision by a person licensed under a state licensing law also constitutes a violation of that law.*

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

1 opinion in a federally related transaction as to the market value of
2 an adequately described property as of a specific date, supported
3 by the presentation and analysis of relevant market information.

4 The term “appraisal” does not include an opinion given by a real
5 estate licensee or engineer or land surveyor in the ordinary course
6 of his or her business in connection with a function for which a
7 license is required under Chapter 7 (commencing with Section
8 6700) or Chapter 15 (commencing with Section 8700) of Division
9 3, or Chapter 3 (commencing with Section 10130) or Chapter 7
10 (commencing with Section 10500) and the opinion shall not be
11 referred to as an appraisal. This part does not apply to a probate
12 referee acting pursuant to Sections 400 to 408, inclusive, of the
13 Probate Code unless the appraised transaction is federally related.

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

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

19 (A) Administers networks of independent contractor appraisers
20 to perform appraisals for clients.

21 (B) Receives requests for appraisals from one or more clients
22 and, for a fee paid by a client, enters into an agreement with one
23 or more independent appraisers to complete the appraisals
24 contained in the request.

25 (C) Otherwise serves as a third-party broker of appraisals
26 between clients and appraisers.

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

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

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

39 (C) Any residential mortgage lender or residential mortgage
40 servicer licensed pursuant to Division 20 (commencing with

1 Section 50000) of the Financial Code, when acting under the
2 authority of that license.

3 (D) Any real estate broker licensed pursuant to Part 1
4 (commencing with Section 10000) of Division 4 of the Business
5 and Professions Code, when acting under the authority of that
6 license.

7 *(E) Any person licensed to practice law in this state who orders*
8 *an appraisal in connection with a bona fide client relationship.*

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

11 (A) Exclusively delegates appraisal assignments to appraisers
12 or trainees as employees rather than independent contractors, and
13 is responsible for ensuring that employees complete appraisal
14 assignments in accordance with the Uniform Standards of
15 Professional Appraisal Practice.

16 (B) Contracts with independent appraisers acting as independent
17 contractors for the completion of appraisal assignments that the
18 person or entity cannot complete for any reason, including
19 competency, workload, scheduling, or geographic location.

20 (C) Contracts with independent appraisers acting as independent
21 contractors for the completion of real estate appraisal assignments
22 and, upon the completion of those assignments, cosigns the
23 appraisal reports with the independent contractor appraisers.

24 (e) “Appraisal Subcommittee” means the Appraisal
25 Subcommittee of the Federal Financial Institutions Examination
26 Council.

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

28 (1) An owner, officer, or director of an appraisal management
29 company.

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

36 (3) An individual who possesses, directly or indirectly, the
37 power to direct or cause the direction of the management or policies
38 of an appraisal management company.

39 (g) “Director” means the Director of the Office of Real Estate
40 Appraisers.

1 (h) “Federal financial institutions regulatory agency” means the
2 Federal Reserve Board, Federal Deposit Insurance Corporation,
3 Office of the Comptroller of the Currency, Office of Thrift
4 Supervision, Federal Home Loan Bank System, National Credit
5 Union Administration, the Resolution Trust Corporation, and any
6 other agency determined by the director to have jurisdiction over
7 transactions subject to this part.

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

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

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

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

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

29 (o) “Secretary” means the Secretary of Business, Transportation
30 and Housing.

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

33 (q) “Uniform Standards of Professional Appraisal Practice” are
34 the standards of professional appraisal practice established by the
35 Appraisal Foundation.

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

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

1 11314. The office is required to include in its regulations
2 requirements for licensure and discipline of real estate appraisers
3 that ensure protection of the public interest and comply in all
4 respects with Title XI of the Financial Institutions Reform,
5 Recovery and Enforcement Act of 1989, Public Law 101-73 and
6 any subsequent amendments thereto. Requirements for each level
7 of licensure shall, at a minimum, meet the criteria established by
8 the Appraiser Qualification Board of the Appraisal Foundation.
9 The office may additionally include in its regulations requirements
10 for the registration of appraisal management companies *consistent*
11 *with this part*.

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

14 11315. (a) The director may issue to a licensee, applicant for
15 licensure, person who acts in a capacity that requires a license
16 under this part, registrant, applicant for a certificate of registration,
17 course provider, applicant for course provider accreditation, or a
18 person who, or entity that, acts in a capacity that requires course
19 provider accreditation a citation that may contain an order to pay
20 an administrative fine assessed by the office if the person or entity
21 is in violation of this part or any regulations adopted to carry out
22 its purposes.

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

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

28 (d) (1) If appropriate, the citation may contain an order directing
29 a licensee, registrant, or one or more employees of a registrant to
30 enroll in and successfully complete additional basic or continuing
31 education courses.

32 (2) When a citation imposes an education course or courses, the
33 completion of the course or courses by the licensee, registrant, or
34 employee of a registrant shall be subject to the following
35 conditions:

36 (A) The citation imposing the education requirement may
37 specify the specific course content, the number of hours to be
38 completed, the date by which the course is to be completed, and
39 the method by which satisfaction of the order is to be reported to
40 the office.

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

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

6 (D) Any failure to satisfactorily complete or timely report an
7 education course to the office by the date specified in the citation
8 shall result in the automatic suspension of the licensee's real estate
9 appraiser license or the registrant's certificate of registration as of
10 that date.

11 (E) Reinstatement of a license or registration suspended pursuant
12 to subparagraph (D) shall be made only if all of the following
13 events occur:

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

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

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

18 (e) In no event shall an administrative fine assessed by the office
19 by citation or order exceed ten thousand dollars (\$10,000) per
20 violation. In assessing a fine, the office shall give due consideration
21 to the appropriateness of the amount of the fine with respect to
22 factors such as the gravity of the violation, the good faith of the
23 person who committed the violation, and the history of previous
24 violations.

25 (f) A citation or fine assessment issued pursuant to a citation
26 shall inform the person cited that, if he or she desires a hearing to
27 contest the finding of a violation, he or she must request a hearing
28 by written notice to the office within 30 days of the date of issuance
29 of the citation or assessment. Hearings shall be held pursuant to
30 Chapter 5 (commencing with Section 11500) of Part 1 of Division
31 3 of Title 2 of the Government Code. The citation or fine
32 assessment shall also inform the person cited that failure to respond
33 to the citation or fine assessment shall result in any order or
34 administrative fine imposed becoming final, and that any order or
35 administrative fine shall constitute an enforceable civil judgment
36 in addition to any other penalty or remedy available pursuant to
37 law.

38 (g) (1) If a licensee, applicant for licensure, person who acts
39 in a capacity that requires a license under this part, registrant,
40 applicant for a certificate of registration, course provider, applicant

1 for course provider accreditation, or a person who, or entity that,
2 acts in a capacity that requires course provider accreditation fails
3 to pay a fine, penalty, or required installment payment on the fine
4 or penalty by the date when it is due, the director shall charge him
5 or her interest and a penalty of 10 percent of the fine or installment
6 payment amount. Interest shall be charged at the pooled money
7 investment rate.

8 (2) Failure of a licensee, applicant for licensure, person who
9 acts in a capacity that requires a license under this part, registrant,
10 applicant for a certificate of registration, course provider, applicant
11 for course provider accreditation, or a person who, or entity that,
12 acts in a capacity that requires course provider accreditation to pay
13 a fine or required installment payment on the fine within 30 days
14 of the date ordered in the citation, unless the citation is being
15 appealed, shall be cause for additional disciplinary action by the
16 office.

17 (3) If a citation is not contested and a fine or fine payment is
18 not paid within 30 days of the date ordered in the citation or other
19 order of the director, the full amount of the unpaid balance of the
20 assessed fine shall be added to any fee for renewal of a license or
21 a certificate of registration. A license or a certificate of registration
22 shall not be renewed prior to payment of the renewal fee and fine.

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

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

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

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

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

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

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

3 11315.5. Notwithstanding any other provision of law, the office
4 may, at any time the director deems it to be in the public interest,
5 enter into a settlement of any administrative allegation of violation
6 of this part, or of regulations promulgated pursuant thereto, upon
7 any terms and conditions as the director deems appropriate. Those
8 settlements may include, but are not limited to, a plan for abatement
9 of the violation or rehabilitation or requalification of the applicant,
10 licensed appraiser, course provider, registrant, or person acting in
11 a capacity requiring a license or course provider accreditation
12 within a specified time.

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

15 11316. (a) The director may assess a fine against a licensee,
16 applicant for licensure, person who acts in a capacity that requires
17 a license under this part, registrant, applicant for a certificate of
18 registration, course provider, applicant for course provider
19 accreditation, or a person who, or entity that, acts in a capacity
20 that requires course provider accreditation for violation of this part
21 or any regulations adopted to carry out its purposes.

22 (b) (1) Failure of a licensee, applicant for licensure, person who
23 acts in a capacity that requires a license under this part, registrant,
24 applicant for a certificate of registration, course provider, applicant
25 for course provider accreditation, or a person who, or entity that,
26 acts in a capacity that requires course provider accreditation to pay
27 a fine or make a fine payment within 30 days of the date of
28 assessment shall result in disciplinary action by the office. If a
29 licensee, applicant for licensure, person who acts in a capacity that
30 requires a license under this part, registrant, applicant for a
31 certificate of registration, course provider, applicant for course
32 provider accreditation, or a person who, or entity that, acts in a
33 capacity that requires course provider accreditation fails to pay a
34 fine within 30 days, the director shall charge him or her interest
35 and a penalty of 10 percent of the fine or payment amount. Interest
36 shall be charged at the pooled money investment rate.

37 (2) If a fine is not paid, the full amount of the assessed fine shall
38 be added to any fee for renewal of a license or a certificate of
39 registration. A license or a certificate of registration shall not be
40 renewed prior to payment of the renewal fee and fine.

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

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

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

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

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

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

15 11318. (a) A licensee, applicant for licensure, controlling
16 person of a registrant, applicant as controlling person of a
17 registrant, course provider, or applicant for course provider
18 accreditation shall report to the office, in writing, the occurrence
19 of any of the following events within 30 days of the date he or she
20 has knowledge of any of these events:

21 (1) The conviction of the licensee, applicant for licensure,
22 controlling person of a registrant, applicant as controlling person
23 of a registrant, course provider, or applicant for course provider
24 accreditation of any of the following:

25 (A) A felony.

26 (B) Any crime related to the qualifications, functions, or duties
27 of a licensee or registrant, or to acts or activities committed in the
28 course of the licensee's, registrant's, or course provider's practice.

29 As used in this section, a conviction includes an initial plea,
30 verdict, or finding of guilty, plea of no contest, or pronouncement
31 of sentence by a trial court even though that conviction may not
32 be final, the sentence may not be imposed, or all appeals may not
33 be exhausted.

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

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

1 (b) The report required by subdivision (a) shall be signed by
2 the licensee, applicant for licensure, controlling person of a
3 registrant, course provider, or applicant for course provider
4 accreditation and clearly set forth the facts that constitute the
5 reportable event. The report shall include the title of the matter,
6 court or agency name, docket number, and dates of occurrence of
7 the reportable event.

8 (c) The licensee, applicant for licensure, controlling person of
9 a registrant, course provider, or applicant for course provider
10 accreditation shall also promptly obtain and submit a certified copy
11 of the police or administrative agency's investigative report and
12 certified copies of the court or administrative agency's docket,
13 complaint or accusation, and judgment or other order.

14 (d) A licensee, applicant for licensure, registrant, course
15 provider, or applicant for course provider accreditation shall
16 promptly respond to oral or written inquiries from the office
17 concerning the reportable events.

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

20 11319. Notwithstanding any other provision of this code, the
21 Uniform Standards of Professional Appraisal Practice constitute
22 the minimum standard of conduct and performance for a licensee
23 or registrant in any work or service performed that is addressed
24 by those standards. If a licensee also is certified by the Board of
25 Equalization, he or she shall follow the standards established by
26 the Board of Equalization when fulfilling his or her responsibilities
27 for assessment purposes.

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

30 11320.5. No person or entity shall act in the capacity of an
31 appraisal management company without first obtaining a certificate
32 of registration from the office.

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

35 11328. To substantiate documentation of appraisal experience,
36 or to facilitate the investigation of illegal or unethical activities by
37 a licensee, applicant, registrant, or other person acting in a capacity
38 that requires a license or certificate of registration, that licensee,
39 applicant, registrant, or person shall, upon the request of the
40 director, submit copies of appraisals, or any work product which

1 is addressed by the Uniform Standards of Professional Appraisal
2 Practice, and all supporting documentation and data to the office.
3 This material shall be confidential in accordance with the
4 confidentiality provisions of the Uniform Standards of Professional
5 Appraisal Practice.

6 SEC. 10. Section 11343 of the Business and Professions Code
7 is repealed.

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

10 11343. (a) The office shall submit to the Department of Justice
11 fingerprint images and related information required by the
12 Department of Justice of all real estate appraiser license applicants
13 and each 10 percent owner and controlling person of each applicant
14 for registration as an appraisal management company, for the
15 purposes of obtaining information as to the existence and content
16 of a record of state or federal convictions and state or federal arrests
17 and also information as to the existence and content of a record of
18 state or federal arrests for which the Department of Justice
19 establishes that the person is free on bail or on his or her own
20 recognizance pending trial or appeal.

21 (b) When received, the Department of Justice shall forward to
22 the Federal Bureau of Investigation requests for federal summary
23 criminal history information received pursuant to this section. The
24 Department of Justice shall review the information returned from
25 the Federal Bureau of Investigation and compile and disseminate
26 a response to the office.

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

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

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

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

38 11345. The director shall adopt regulations governing the
39 process and procedure of applying for registration as an appraisal

1 management company. Applications for a certificate of registration
2 shall require, at a minimum, all of the following:

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

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

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

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

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

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

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

21 11345.1. A certificate of registration as an appraisal
22 management company shall be valid for a period of two years,
23 unless otherwise extended or limited by the director.

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

26 11345.2. No person may own 10 percent or more of a registrant
27 or applicant for registration, nor act as a controlling person for a
28 registrant or applicant for registration, if any of the following apply:

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

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

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

37 11345.3. The director may not issue a certificate of registration
38 to an appraisal management company unless the appraisal
39 management company demonstrates, to the satisfaction of the
40 director, that it has established systems to do all of the following:

1 (a) Ensure that independent contractor appraisers contracted by
2 the applicant possess all required licenses and certificates from
3 the office.

4 (b) Review the work of all independent contractor appraisers
5 contracted by the applicant to ensure that appraisal services are
6 performed in accordance with the Uniform Standards of
7 Professional Appraisal Practice.

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

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

12 11345.4. No person or entity acting in the capacity of an
13 appraisal management company shall improperly influence or
14 attempt to improperly influence the development, reporting, result,
15 or review of any appraisal. ~~Examples of prohibited~~ *Prohibited* acts
16 include, but are not limited to, the following:

17 (a) Withholding or threatening to withhold timely payment for
18 an appraisal.

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

22 (c) Expressly or impliedly promising future business,
23 promotions, or increased compensation for an independent
24 appraiser.

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

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

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

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

37 11345.45. A person or entity may not structure an appraisal
38 assignment or a contract with an independent appraiser for the
39 purpose of evading the provisions of this part relating to appraisal
40 management companies.

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

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

~~SEC. 19.~~

~~SEC. 18. Section 11345.6 is added to the Business and Professions Code, to read:~~

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

~~SEC. 20.~~

~~SEC. 19. Section 11406.5 is added to the Business and Professions Code, to read:~~

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

~~SEC. 21.~~

~~SEC. 20. Section 11409 of the Business and Professions Code is amended to read:~~

~~11409. (a) Except as otherwise provided by law, any order issued in resolution of a disciplinary proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, registrant, applicant for a certificate of registration, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation found to have committed a violation or violations of statutes or regulations relating to real estate appraiser practice to pay a sum not to exceed the reasonable costs of investigation, enforcement, and prosecution of the case.~~

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

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

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

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

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

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

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

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

~~SEC. 22.~~

SEC. 21. Section 11422 of the Business and Professions Code is amended to read:

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

~~SEC. 23.~~

SEC. 22. Section 1090.5 of the Civil Code is amended to read:

1090.5. (a) No person with an interest in a real estate transaction involving an appraisal shall 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. ~~Examples of prohibited~~ *Prohibited* acts include, but are not limited to, the following:

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

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

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

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

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

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

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

(1) Consider additional, appropriate property information.

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

(3) Correct errors in the appraisal report.

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

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