

AMENDED IN ASSEMBLY JUNE 3, 2009

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, 11315.5~~ 11409, and 11422 of, to add Sections ~~11320.5, 11345~~ *11315.1, 11320.5, 11328.1, 11345, 11345.05, 11345.1, 11345.2, 11345.3, 11345.4, 11345.45, 11345.6, 11346,* 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 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 fingerprinting and background checks by the Department of Justice of 10% owners and any controlling person of an applicant for registration, and would require the department to charge all applicants for licensure or registration specified fees for those services. The bill would also set forth standards with which an appraisal management company would need to comply, *and would provide to the office specified investigative and enforcement authority, including the authority to issue citations or administrative penalties for a violation thereof, to be deposited into the Real Estate Appraisers Regulation Fund.* The bill would make conforming changes within other provisions of the Real Estate Appraisers' Licensing and Certification Law to incorporate the changes made by the bill.

This bill would make any provision under the Real Estate Appraisers' Licensing and Certification Law that relates to appraisal management companies inoperative 60 days after the effective date of any federal law that mandates the registration or licensing of appraisal management companies with an entity other than the state regulatory authority with jurisdiction over appraisers.

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.

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

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

SECTION 1. Section 11302 of the Business and Professions Code is amended to read:

11302. For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

(a) “Agency” means the Business, Transportation and Housing Agency.

(b) “Appraisal” means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

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

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

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

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

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

~~(C) Otherwise serves as a third-party broker of appraisals between clients and appraisers, or entity that satisfies all of the following conditions:~~

~~(A) Maintains an approved list or lists, containing 11 or more independent contractor appraisers licensed or certified pursuant~~

1 *to this part, or employs 11 or more appraisers licensed or certified*
2 *pursuant to this part.*

3 *(B) Receives requests for appraisals from one or more clients.*

4 *(C) For a fee paid by one or more of its clients, delegates*
5 *appraisal assignments for completion by its independent contractor*
6 *or employee appraisers.*

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

10 (A) Any bank, credit union, trust company, savings and loan
11 association, or industrial loan company doing business under the
12 authority of, or in accordance with, a license, certificate, or charter
13 issued by the United States or any state, district, territory, or
14 commonwealth of the United States that is authorized to transact
15 business in this state.

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

19 (C) Any residential mortgage lender or residential mortgage
20 servicer licensed pursuant to Division 20 (commencing with
21 Section 50000) of the Financial Code, when acting under the
22 authority of that license.

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

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

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

31 ~~(A) Exclusively delegates appraisal assignments to appraisers~~
32 ~~or trainees as employees rather than independent contractors, and~~
33 ~~is responsible for ensuring that employees complete appraisal~~
34 ~~assignments in accordance with the Uniform Standards of~~
35 ~~Professional Appraisal Practice.~~

36 ~~(B) Contracts with independent appraisers acting as independent~~
37 ~~contractors for the completion of appraisal assignments that the~~
38 ~~person or entity cannot complete for any reason, including~~
39 ~~competency, workload, scheduling, or geographic location.~~

1 ~~(C) Contracts with independent appraisers acting as independent~~
2 ~~contractors for the completion of real estate appraisal assignments~~
3 ~~and, upon the completion of those assignments, cosigns the~~
4 ~~appraisal reports with the independent contractor appraisers.~~

5 (e) “Appraisal Subcommittee” means the Appraisal
6 Subcommittee of the Federal Financial Institutions Examination
7 Council.

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

9 (1) ~~An owner, officer,~~ *officer* or director of an appraisal
10 management company, *or a person who holds a 10 percent or*
11 *greater ownership interest in an appraisal management company.*

12 (2) An individual employed, appointed, or authorized by an
13 appraisal management company that has the authority to enter into
14 a contractual relationship with clients for the performance of
15 appraisal services and that has the authority to enter into
16 agreements with independent appraisers for the completion of
17 appraisals.

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

21 (g) “Director” means the Director of the Office of Real Estate
22 Appraisers.

23 (h) “Federal financial institutions regulatory agency” means the
24 Federal Reserve Board, Federal Deposit Insurance Corporation,
25 Office of the Comptroller of the Currency, Office of Thrift
26 Supervision, Federal Home Loan Bank System, National Credit
27 Union Administration, ~~the Resolution Trust Corporation,~~ and any
28 other agency determined by the director to have jurisdiction over
29 transactions subject to this part.

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

34 (j) “Federally related transaction” means any real estate-related
35 financial transaction which a federal financial institutions
36 regulatory agency engages in, contracts for or regulates and which
37 requires the services of a state licensed real estate appraiser
38 regulated by this part. This term also includes any transaction
39 identified as such by a federal financial institutions regulatory
40 agency.

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

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

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

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

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

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

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

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

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

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

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

~~11315. (a) The director may issue to 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 a citation that may contain an order to pay~~

1 an administrative fine assessed by the office if the person or entity
2 is in violation of this part or any regulations adopted to carry out
3 its purposes.

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

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

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

13 (2) When a citation imposes an education course or courses, the
14 completion of the course or courses by the licensee, registrant, or
15 employee of a registrant shall be subject to the following
16 conditions:

17 (A) The citation imposing the education requirement may
18 specify the specific course content, the number of hours to be
19 completed, the date by which the course is to be completed, and
20 the method by which satisfaction of the order is to be reported to
21 the office.

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

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

27 (D) Any failure to satisfactorily complete or timely report an
28 education course to the office by the date specified in the citation
29 shall result in the automatic suspension of the licensee's real estate
30 appraiser license or the registrant's certificate of registration as of
31 that date.

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

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

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

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

39 (e) In no event shall an administrative fine assessed by the office
40 by citation or order exceed ten thousand dollars (\$10,000) per

1 violation. In assessing a fine, the office shall give due consideration
2 to the appropriateness of the amount of the fine with respect to
3 factors such as the gravity of the violation, the good faith of the
4 person who committed the violation, and the history of previous
5 violations.

6 (f) A citation or fine assessment issued pursuant to a citation
7 shall inform the person cited that, if he or she desires a hearing to
8 contest the finding of a violation, he or she must request a hearing
9 by written notice to the office within 30 days of the date of issuance
10 of the citation or assessment. Hearings shall be held pursuant to
11 Chapter 5 (commencing with Section 11500) of Part 1 of Division
12 3 of Title 2 of the Government Code. The citation or fine
13 assessment shall also inform the person cited that failure to respond
14 to the citation or fine assessment shall result in any order or
15 administrative fine imposed becoming final, and that any order or
16 administrative fine shall constitute an enforceable civil judgment
17 in addition to any other penalty or remedy available pursuant to
18 law.

19 (g) (1) If a licensee, applicant for licensure, person who acts
20 in a capacity that requires a license under this part, registrant,
21 applicant for a certificate of registration, course provider, applicant
22 for course provider accreditation, or a person who, or entity that,
23 acts in a capacity that requires course provider accreditation fails
24 to pay a fine, penalty, or required installment payment on the fine
25 or penalty by the date when it is due, the director shall charge him
26 or her interest and a penalty of 10 percent of the fine or installment
27 payment amount. Interest shall be charged at the pooled money
28 investment rate.

29 (2) 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 required installment payment on the fine within 30 days
35 of the date ordered in the citation, unless the citation is being
36 appealed, shall be cause for additional disciplinary action by the
37 office.

38 (3) If a citation is not contested and a fine or fine payment is
39 not paid within 30 days of the date ordered in the citation or other
40 order of the director, the full amount of the unpaid balance 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 fine.

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

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

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

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

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

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

SEC. 3. Section 11315.1 is added to the Business and Professions Code, to read:

11315.1. (a) The director may issue to a registrant or person who acts in a capacity that requires a certificate of registration under this part, a citation that may contain an order to pay an administrative fine assessed by the office, if the person is in violation of this part or any regulations adopted to carry out its purposes.

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

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

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

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

(f) (1) If a registrant or person who acts in a capacity that requires a certificate of registration fails to pay a fine, penalty, or required installment payment on the fine or penalty by the date when it is due, the director shall charge that person interest and a penalty of the fine or installment payment amount. Interest shall be charged at the pooled money investment rate.

(2) Failure of a registrant or person who requires a certificate of registration to pay a fine or required installment payment on the fine within 30 days of the date ordered in the citation, unless the citation is being appealed, shall be cause for additional disciplinary action by the office.

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

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

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

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

(g) A citation may be issued without the assessment of an administrative fine.

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

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

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

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

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

~~11316. (a) The director may assess a fine against 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 for violation of this part or any regulations adopted to carry out its purposes.~~

~~(b) (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 a fine or make a fine payment within 30 days of the date of assessment shall result in disciplinary action by the office. If 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 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.~~

35 ~~SEC. 5. Section 11320.5 is added to the Business and~~
36 ~~Professions Code, to read:~~

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

1 ~~SEC. 9. Section 11328 of the Business and Professions Code~~
2 ~~is amended to read:~~

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

14 ~~SEC. 6. Section 11328.1 is added to the Business and~~
15 ~~Professions Code, to read:~~

16 ~~11328.1. If the director has a reasonable belief that a~~
17 ~~registrant, or person or entity acting in a capacity that requires a~~
18 ~~certificate of registration, has engaged in activities prohibited~~
19 ~~under this part, he or she may submit a written request to the~~
20 ~~registrant, person, or entity, requesting copies of written material~~
21 ~~related to his or her investigation. Any registrant, person, or entity~~
22 ~~receiving a written request from the director for information~~
23 ~~related to an investigation of prohibited activities shall submit that~~
24 ~~information to the director or the office within a reasonable period~~
25 ~~of time, which shall be specified by the director in his or her written~~
26 ~~request. Any material submitted shall be kept confidential by the~~
27 ~~director and the office.~~

28 ~~SEC. 10.~~

29 ~~SEC. 7. Section 11343 of the Business and Professions Code~~
30 ~~is repealed.~~

31 ~~SEC. 11.~~

32 ~~SEC. 8. Section 11343 is added to the Business and Professions~~
33 ~~Code, to read:~~

34 ~~11343. (a) The office shall submit to the Department of Justice~~
35 ~~fingerprint images and related information required by the~~
36 ~~Department of Justice of all real estate appraiser license applicants~~
37 ~~and each 10 percent owner and controlling person of each applicant~~
38 ~~for registration as an appraisal management company, for the~~
39 ~~purposes of obtaining information as to the existence and content~~
40 ~~of a record of state or federal convictions and state or federal arrests~~

1 and also information as to the existence and content of a record of
2 state or federal arrests for which the Department of Justice
3 establishes that the person is free on bail or on his or her own
4 recognizance pending trial or appeal.

5 (b) When received, the Department of Justice shall forward to
6 the Federal Bureau of Investigation requests for federal summary
7 criminal history information received pursuant to this section. The
8 Department of Justice shall review the information returned from
9 the Federal Bureau of Investigation and compile and disseminate
10 a response to the office.

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

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

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

20 ~~SEC. 12.~~

21 *SEC. 9.* Section 11345 is added to the Business and Professions
22 Code, to read:

23 11345. The director shall adopt regulations governing the
24 process and procedure of applying for registration as an appraisal
25 management company. Applications for a certificate of registration
26 shall require, at a minimum, all of the following:

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

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

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

34 ~~(d) Designation of a controlling person for the applicant who~~
35 ~~possesses the authority to enter into contractual relationships with~~
36 ~~clients on behalf of the applicant, direct the management and~~
37 ~~policies of the applicant, and respond to inquiries from the office.~~

38 ~~(e) If the applicant is an entity, the name, address, and contact~~
39 ~~information for any person or entity owning 10 percent or more~~
40 ~~of the applicant.~~

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

(d) The name, address, and contact information for each controlling person employed by the applicant who has operational authority to direct the management of, and establish policies for, the applicant. If the applicant employs more than 10 individuals meeting the criteria of this subdivision, the applicant may list the names, addresses, and contact information for the 10 individuals meeting the criteria who hold the greatest level of management responsibility within its organization.

SEC. 10. Section 11345.05 is added to the Business and Professions Code, to read:

11345.05. (a) A registrant shall notify the office within 10 business days, on a form developed by the office, of any additions, deletions, or changes in the names, addresses, and contact information for the individuals listed on its application.

(b) A registrant shall correct information on file with the office within 10 business days of discovering an error in that information, and shall not be subject to disciplinary action by the director or the office for incorrect information the registrant corrects within 10 business days of its discovery as being inaccurate.

~~SEC. 13.~~

SEC. 11. Section 11345.1 is added to the Business and Professions Code, to read:

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

~~SEC. 14.~~

SEC. 12. Section 11345.2 is added to the Business and Professions Code, to read:

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

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

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

1 11345.2. (a) No individual may act as a controlling person
2 for a registrant if any of the following apply:

3 (1) The individual has entered a plea of guilty or no contest to,
4 or been convicted of, a felony.

5 (2) The individual has had a license or certificate to act as an
6 appraiser or to engage in activities related to the transfer of real
7 property refused, denied, canceled, or revoked in this state or any
8 other state.

9 (b) Any individual who acts as a controlling person of an
10 appraisal management company and who enters a plea of guilty
11 or no contest to, or is convicted of, a felony, or who has a license
12 or certificate as an appraiser refused, denied, canceled, or revoked
13 in any other state shall report that fact or cause that fact to be
14 reported to the office, in writing, within 10 days of the date he or
15 she has knowledge of that fact.

16 ~~SEC. 15.~~

17 SEC. 13. Section 11345.3 is added to the Business and
18 Professions Code, to read:

19 11345.3. The director may not issue a certificate of registration
20 to an appraisal management company unless the appraisal
21 ~~management company demonstrates, to the satisfaction of the~~
22 ~~director, that it has established systems to do all of the following:~~
23 ~~management company confirms in its application for registration~~
24 ~~that all of its contracts with clients include provision of each of~~
25 ~~the following as standard business practices, as and where~~
26 ~~applicable:~~

27 (a) ~~Ensure~~—Ensuring that independent contractor appraisers
28 contracted by the applicant possess all required licenses and
29 certificates from the office.

30 (b) ~~Review~~—Reviewing the work of all independent contractor
31 appraisers contracted by the applicant to ensure that appraisal
32 services are performed in accordance with the Uniform Standards
33 of Professional Appraisal Practice.

34 (c) ~~Maintain a detailed record of each service request and the~~
35 ~~independent appraiser selected for the assignment.~~

36 (c) Maintaining records of each of the following for each service
37 request:

38 (1) Date of receipt of the request.

39 (2) Name of the person from whom the request was received.

1 (3) *Name of the client for whom the request was made, if*
2 *different from the name of the person from whom the request was*
3 *received.*

4 (4) *The appraiser or appraisers assigned to perform the*
5 *contracted service.*

6 (5) *Date of delivery of the appraisal product to the client.*

7 ~~SEC. 16.~~

8 SEC. 14. Section 11345.4 is added to the Business and
9 Professions Code, to read:

10 11345.4. No person or entity acting in the capacity of an
11 appraisal management company shall improperly influence or
12 attempt to improperly influence the development, reporting, result,
13 or review of any appraisal. ~~Prohibited acts include, but are not~~
14 ~~limited to,~~ *appraisal by engaging, without limitation, in any of the*
15 *following:*

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

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

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

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

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

30 (f) Requesting that an appraiser provide an estimated,
31 predetermined, or desired valuation in an appraisal report, ~~or~~
32 providing to an appraiser an anticipated, estimated, encouraged,
33 or desired valuation in an appraisal report, *or requesting that an*
34 *appraiser provide estimated values of comparable sales at any*
35 *time before the appraiser completes an appraisal report.*

36 ~~SEC. 17.~~

37 SEC. 15. Section 11345.45 is added to the Business and
38 Professions Code, to read:

39 11345.45. A person or entity may not structure an appraisal
40 assignment or a contract with an independent appraiser for the

1 purpose of evading the provisions of this part relating to appraisal
2 management companies.

3 ~~SEC. 18.~~

4 SEC. 16. Section 11345.6 is added to the Business and
5 Professions Code, to read:

6 11345.6. (a) No registered appraisal management company
7 may alter, modify, or otherwise change a completed appraisal
8 report submitted by an independent appraiser, *including, without*
9 *limitation, by doing either of the following:*

10 (1) *Permanently removing the appraiser's signature or seal.*

11 (2) *Adding information to, or removing information from, the*
12 *appraisal report with an intent to change the value conclusion.*

13 (b) *No registered appraisal management company may require*
14 *an appraiser to provide it with the appraiser's digital signature*
15 *or seal. However, nothing in this subdivision shall be deemed to*
16 *prohibit an appraiser from voluntarily providing his or her digital*
17 *signature or seal to another person.*

18 SEC. 17. Section 11346 is added to the Business and
19 Professions Code, to read:

20 11346. *The provisions of this part relating to appraisal*
21 *management companies shall cease to be operative 60 days after*
22 *the effective date of a federal law that mandates the registration*
23 *or licensing of appraisal management companies with an entity*
24 *other than the state regulatory authority with jurisdiction over*
25 *licensed and certified appraisers.*

26 ~~SEC. 19.~~

27 SEC. 18. 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. 20.~~

35 SEC. 19. Section 11409 of the Business and Professions Code
36 is amended to read:

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

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

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

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

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

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

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

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

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

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

7 ~~SEC. 21.~~

8 *SEC. 20.* Section 11422 of the Business and Professions Code
9 is amended to read:

10 11422. The office shall, on or before February 1, 1994, and at
11 least annually thereafter, transmit to the appraisal subcommittee
12 specified in subdivision (e) of Section 11302 a roster of persons
13 licensed pursuant to this part.

14 ~~SEC. 22.~~

15 *SEC. 21.* Section 1090.5 of the Civil Code is amended to read:

16 1090.5. (a) No person with an interest in a real estate
17 transaction involving an appraisal shall improperly influence or
18 attempt to improperly influence, through coercion, extortion, or
19 bribery, the development, reporting, result, or review of a real
20 estate appraisal sought in connection with a mortgage loan.
21 Prohibited acts include, but are not limited to, the following:

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

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

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

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

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

36 (6) Requesting that an appraiser provide an estimated,
37 predetermined, or desired valuation in an appraisal report, ~~or~~
38 providing to an appraiser an anticipated, estimated, encouraged,
39 or desired valuation in an appraisal report, *or requesting that an*

- 1 *appraiser provide estimated values of comparable sales at any*
2 *time before the appraiser completes an appraisal report.*
3 (b) Subdivision (a) does not prohibit a person with an interest
4 in a real estate transaction from asking an appraiser to do any of
5 the following:
6 (1) Consider additional, appropriate property information.
7 (2) Provide further detail, substantiation, or explanation for the
8 appraiser's value conclusion.
9 (3) Correct errors in the appraisal report.
10 (c) If a person who violates this section is licensed or registered
11 under any state licensing or registration law and the violation
12 occurs within the course and scope of the person's duties as a
13 licensee or registrant, the violation shall be deemed a violation of
14 that law.
15 (d) Nothing in this section shall be construed to authorize
16 communications that are otherwise prohibited under existing law.