

HCS HB 2152 -- MISSOURI APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

SPONSOR: Cunningham (Hobbs)

COMMITTEE ACTION: Voted "do pass" by the Committee on Financial Institutions by a vote of 12 to 0.

This substitute establishes the Missouri Appraisal Management Company Registration and Regulation Act to regulate real estate appraisal management companies. In its main provisions, the substitute:

(1) Makes it unlawful for any person to act as a real estate appraisal management company, to directly or indirectly engage or attempt to engage in the business of real estate appraisal management, or to advertise or hold himself or herself out as engaging in or conducting the business of real estate appraisal management without being registered with the Missouri Real Estate Appraisers Commission within the Department of Insurance, Financial Institutions and Professional Registration;

(2) Allows the commission to adopt the necessary rules to implement, administer, and enforce the provisions of the substitute;

(3) Requires an appraisal management company to make written application to the commission for the registration of the company with the required fee as established by rule. No more than 10% of any company applying for a registration may be owned by a person or entity who has had an appraiser license or certificate refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state. Anyone with more than 10% ownership in an appraisal management company must be of good moral character and submit to a background investigation;

(4) Prohibits an appraisal management company from employing or contracting with a person who has had a license or certificate in Missouri or in any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation;

(5) Requires an appraisal management company to verify before assigning an appraisal to an appraiser that it holds a credential in good standing with the State of Missouri and that the letters of engagement include instructions to the appraiser to decline the assignment in the event the appraiser is not geographically competent or the assignment falls outside his or her scope of practice restrictions. Each registered company must certify biannually that it has a system in place to verify that the appraisers are licensed in good standing, that the appraisals are

being conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP), and that it maintains detailed records for at least five years of all appraisal services in Missouri. A company is required to report to the commission the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with USPAP or state or federal laws;

(6) Requires an appraisal management company to separately state to the client all fees paid to an appraiser and the fees charged by the company for services associated with the management of the appraisal process. Fees must be paid to the appraiser within 30 days of the date the appraisal is transmitted with certain exceptions;

(7) Requires each appraisal management company to designate one compliance manager who will be the main contact for all communications between the commission and the company and to contact the commission when its controlling principal, agent of record, or ownership composition changes;

(8) Prohibits an employee, director, officer, or agent of an appraisal management company from influencing or attempting to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery, or any other manner as specified in the substitute;

(9) Requires the commission to issue a unique registration number to each appraisal management company and to publish a list of all companies that have registered and have been issued a number;

(10) Requires a surety bond of \$20,000 to accompany each registration;

(11) Allows the commission to censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under Sections 339.1100 - 339.1240, RSMo, or impose civil penalties of up to \$2,500 for each offense. Each day of a continued violation constitutes a separate offense, with a maximum penalty of \$25,000. In determining the amount of the penalty to be imposed, the commission may consider if a company is:

(a) Knowingly committing any act in violation of Sections 339.1100 - 339.1240;

(b) Violating any rule adopted by the commission; or

(c) Procuring a license by fraud, misrepresentation, or deceit;  
and

(13) Requires the commission before censuring any registrant or suspending or revoking any registration to notify the registrant in writing of any charges made at least 20 days before the hearing and afford the registrant an opportunity to be heard in person or by counsel. Written notice will be satisfied by personal service on the controlling person of the registrant or the registrant's agent for service of process in this state or by sending the notice by certified mail, return receipt requested to the controlling person of the registrant to the registrant's address on file with the commission.

The substitute becomes effective January 1, 2011.

FISCAL NOTE: No impact on General Revenue Fund in FY 2011, FY 2012, and FY 2013. Estimated Effect on Other State Funds of a cost of \$6,708 in FY 2011, an income of \$2,778 in FY 2012, and an income of \$2,969 in FY 2013.

PROPOSERS: Supporters say that the bill will provide a standard of conduct for Missouri appraisers, further protect the consumer, and bring greater accountability. These changes will help to eliminate conflicts of interest on mortgage appraisals.

Testifying for the bill were Representative Hobbs; Missouri Appraisers Advisory Council; David Doering, Missouri Property Appraisal, Incorporated; Sharon Lowman; Kenneth Nicholson; Missouri Association of Relators; Jeffrey Lowman; Lee Price; Loren and Carole Woodard, Appraisal Research Consultants; Ann Nunn Jones; and Roland Hudson.

OPPOSERS: Those who oppose the bill say that it is not consistent with other bills throughout the country and needs to be evaluated to avoid unintended consequences.

Testifying against the bill was Timothy O'Brien.

OTHERS: Others testifying on the bill support registration of appraisal management companies but not under the Division of Finance. The bill needs to be reworked to make it practical regulatory legislation.

Testifying on the bill were Mortgage Bankers Association of Missouri; and Missouri Bankers Association.