

E AND R AMENDMENTS TO LB 77

Introduced by Slama, 1, Chairman Enrollment and Review

1 1. Insert the following new sections:

2 Sec. 12. Section 76-3203, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 76-3203 (1) An application for issuance of a registration shall be
5 made in writing to the board on forms approved by the board, which
6 includes, but is not limited to, all information required by the board
7 necessary to administer and enforce the Nebraska Appraisal Management
8 Company Registration Act, and the name of the contact person for the
9 appraisal management company.

10 (2) An applicant for issuance of a registration shall furnish to the
11 board, at the time of making application, a surety bond in the amount of
12 twenty-five thousand dollars. The surety bond required under this
13 subsection shall be issued by a bonding company or insurance company
14 authorized to do business in this state, and a copy of the bond shall be
15 filed with the board. The bond shall be in favor of the state for the
16 benefit of any person who is damaged by any violation of the Nebraska
17 Appraisal Management Company Registration Act. The bond shall also be in
18 favor of any person damaged by such a violation. Any person claiming
19 against the bond for a violation of the act may maintain an action at law
20 against the appraisal management company and against the surety. The
21 aggregate liability of the surety to all persons damaged by a violation
22 of the act by an appraisal management company shall not exceed the amount
23 of the bond. The bond shall be maintained until one year after the date
24 that the appraisal management company ceases operation in this state.

25 (3) A registration shall be issued only to persons who:

26 (a) Meet the requirements for issuance of a registration;

27 (b) Have a good reputation for honesty, trustworthiness, integrity,

1 and competence to perform appraisal management services in such manner as
2 to safeguard the interest of the public as determined by the board; and

3 (c) Have not had a final civil or criminal judgment entered against
4 them for fraud, dishonesty, breach of trust, or misrepresentation
5 involving real estate, financial services, or appraisal management
6 services within a five-year period immediately preceding the date of
7 application.

8 (4) A registration shall be valid for a period of twelve months
9 beginning on the date which the registration was issued or renewed unless
10 canceled, revoked, or surrendered.

11 (5) All information related to an appraisal management company's
12 registration shall be reported to the Appraisal Subcommittee as required
13 by Title XI of the Financial Institutions Reform, Recovery, and
14 Enforcement Act of 1989, the AMC final rule, and any policy or rule
15 established by the Appraisal Subcommittee.

16 (6) The renewal of a registration includes the same requirements
17 found in subsections (1) through (5) of this section. An application for
18 renewal of a registration shall be furnished to the board no later than
19 sixty days prior to the date of expiration of the registration.

20 (7) For the purpose of subdivision (6) ~~(5)~~ of section 76-3202, the
21 twelve-month period for renewal of a registration shall consist of the
22 twelve months pursuant to subsection (4) of this section.

23 Sec. 13. Section 76-3203.01, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 76-3203.01 (1) Only AMC appraisers considered to be in good standing
26 in all jurisdictions in which an active credential is held shall be
27 included on an appraisal management company's appraiser panel.

28 (2) An appraisal management company shall remove any AMC appraiser
29 from its appraiser panel within thirty days after receiving notice that
30 the AMC appraiser:

31 (a) Is no longer considered to be in good standing in one or more

1 jurisdictions in which he or she holds an active credential or
2 equivalent;

3 (b) The AMC appraiser's credential or equivalent has been refused,
4 denied, canceled, or revoked; or

5 (c) The AMC appraiser has surrendered his or her credential or
6 equivalent in lieu of revocation.

7 (3) Pursuant to subdivision (6)(c) ~~(5)(e)~~ of section 76-3202, an
8 appraiser panel shall include each AMC appraiser as of the earliest date
9 on which such person was accepted by the appraisal management company:

10 (a) For consideration for future assignments in covered transactions
11 or for secondary mortgage market participants in connection with covered
12 transactions; or

13 (b) For engagement to perform one or more appraisals on behalf of a
14 creditor for a covered transaction or for a secondary mortgage market
15 participant in connection with covered transactions.

16 (4) Any AMC appraiser included on an appraisal management company's
17 appraiser panel pursuant to subsection (3) of this section shall remain
18 on such appraiser panel until the date on which the appraisal management
19 company:

20 (a) Sends written notice to the AMC appraiser removing him or her
21 from the appraiser panel. Such written notice shall include an
22 explanation of the action taken by the appraisal management company;

23 (b) Receives written notice from the AMC appraiser requesting that
24 he or she be removed from the appraiser panel. Such written notice shall
25 include an explanation of the action requested by the AMC appraiser; or

26 (c) Receives written notice on behalf of the AMC appraiser of the
27 death or incapacity of the AMC appraiser. Such written notice shall
28 include an explanation on behalf of the AMC appraiser.

29 (5) Upon receipt of notice that he or she has been removed from the
30 appraisal management company's appraiser panel, an AMC appraiser shall
31 have thirty days to provide a response to the appraisal management

1 company that removed the AMC appraiser from its appraiser panel. Upon
2 receipt of the AMC appraiser's response, the appraisal management company
3 shall have thirty days to reconsider the removal and provide a written
4 response to the AMC appraiser.

5 (6) If an AMC appraiser is removed from an appraisal management
6 company's appraiser panel pursuant to subsection (4) of this section,
7 nothing shall prevent the appraisal management company at any time during
8 the twelve months after removal from the appraiser panel from considering
9 such person for future assignments in covered transactions or for
10 secondary mortgage market participants in connection with covered
11 transactions, or for engagement to perform one or more appraisals on
12 behalf of a creditor for a covered transaction or for a secondary
13 mortgage market participant in connection with covered transactions. If
14 such consideration or engagement takes place, the removal shall be deemed
15 not to have occurred and such person shall be deemed to have been
16 included on the appraiser panel without interruption.

17 (7) Any AMC appraiser included on an appraisal management company's
18 appraiser panel engaged in appraisal practice or real property appraisal
19 activity as a result of an assignment provided by an appraisal management
20 company shall be free from inappropriate influence and coercion as
21 required by the appraisal independence standards established under
22 section 129E of the federal Truth in Lending Act, as such section existed
23 on January 1, 2018, including the requirements for payment of a
24 reasonable and customary fee to AMC appraisers when the appraisal
25 management company is engaged in providing appraisal management services.

26 (8) An appraisal management company shall select an AMC appraiser
27 from its appraiser panel for an assignment who is independent of the
28 transaction and who has the requisite education, expertise, and
29 experience necessary to competently complete the assignment for the
30 particular market and property type.

31 Sec. 14. Section 76-3204, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 76-3204 The Nebraska Appraisal Management Company Registration Act
3 does not apply to:

4 (1) A department or division of a person that provides appraisal
5 management services only to itself; or

6 (2) A person that provides appraisal management services but does
7 not meet the requirement established by subdivision (6)(c) ~~(5)(e)~~ of
8 section 76-3202.

9 Sec. 15. Section 76-3216, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 76-3216 (1) It is unlawful for a person to directly or indirectly
12 engage in or attempt to engage in business as an appraisal management
13 company or to advertise or hold itself out as engaging in or conducting
14 business as an appraisal management company in this state without first
15 obtaining a registration or by meeting the requirements as a federally
16 regulated appraisal management company.

17 (2) Except as provided in section 76-3204, any person who, directly
18 or indirectly for another, offers, attempts, or agrees to perform all
19 actions described in subdivision (6) ~~(5)~~ of section 76-3202 or any action
20 described in subdivision (7) ~~(6)~~ of such section, shall be deemed an
21 appraisal management company within the meaning of the Nebraska Appraisal
22 Management Company Registration Act, and such action shall constitute
23 sufficient contact with this state for the exercise of personal
24 jurisdiction over such person in any action arising out of the act.

25 (3) The board may issue a cease and desist order against any person
26 who violates this section by performing any action described in
27 subdivision ~~(5) or (6)~~ (7) of section 76-3202 without the appropriate
28 registration. Such order shall be final ten days after issuance unless
29 such person requests a hearing pursuant to section 76-3217. The board
30 may, through the Attorney General, obtain an order from the district
31 court for the enforcement of the cease and desist order.

1 (4) To the extent permitted by any applicable federal legislation or
2 regulation, the board may censure an appraisal management company,
3 conditionally or unconditionally suspend or revoke its registration, or
4 levy fines or impose civil penalties not to exceed five thousand dollars
5 for a first offense and not to exceed ten thousand dollars for a second
6 or subsequent offense, if the board determines that an appraisal
7 management company is attempting to perform, has performed, or has
8 attempted to perform any of the following:

9 (a) A material violation of the act;

10 (b) A violation of any rule or regulation adopted and promulgated by
11 the board; or

12 (c) Procurement of a registration for itself or any other person by
13 fraud, misrepresentation, or deceit.

14 (5) In order to promote voluntary compliance, encourage appraisal
15 management companies to correct errors promptly, and ensure a fair and
16 consistent approach to enforcement, the board shall endeavor to impose
17 fines or civil penalties that are reasonable in light of the nature,
18 extent, and severity of the violation. The board shall also take action
19 against an appraisal management company's registration only after less
20 severe sanctions have proven insufficient to ensure behavior consistent
21 with the Nebraska Appraisal Management Company Registration Act. When
22 deciding whether to impose a sanction permitted by subsection (4) of this
23 section, determining the sanction that is most appropriate in a specific
24 instance, or making any other discretionary decision regarding the
25 enforcement of the act, the board shall consider whether an appraisal
26 management company:

27 (a) Has an effective program reasonably designed to ensure
28 compliance with the act;

29 (b) Has taken prompt and appropriate steps to correct and prevent
30 the recurrence of any detected violations; and

31 (c) Has independently reported to the board any significant

1 violations or potential violations of the act prior to an imminent threat
2 of disclosure or investigation and within a reasonably prompt time after
3 becoming aware of the occurrence of such violations.

4 (6) Any violation of appraisal-related laws or rules and
5 regulations, and disciplinary action taken against an appraisal
6 management company, shall be reported to the Appraisal Subcommittee as
7 required by Title XI of the Financial Institutions Reform, Recovery, and
8 Enforcement Act of 1989, the AMC final rule, and any policy or rule
9 established by the Appraisal Subcommittee.

10 2. On page 14, line 10, after the last semicolon insert "and"; in
11 line 13 after "(b)(iii)(A)" insert "of this subsection"; and in lines 23
12 and 24 strike "section" and insert "subsection".

13 3. On page 21, line 17, strike "exam" and insert "examination".

14 4. On page 30, line 29, strike "and" and after "76-3202," insert
15 "76-3203, 76-3203.01, 76-3204, and 76-3216,".

16 5. Renumber the remaining section accordingly.