

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Date: (Filing No. H-)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 939, L.D. 1349, Bill, “An Act Regarding the Registration of Appraisal Management Companies”

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Licensure of Appraisal Management Companies'

Amend the bill in section 1 in chapter 124-A in the 2nd line (page 1, line 4 in L.D.) by striking out the following: "**REGISTRATION**" and inserting the following: **'LICENSING'**

Amend the bill in section 1 in §14041 in the first paragraph in the last line (page 1, line 7 in L.D.) by striking out the following: "Registration" and inserting the following: 'Licensing'

Amend the bill in section 1 in §14042 in subsection 2 in the last line (page 1, line 13 in L.D.) by inserting after the following: "service." the following: ' "Appraisal assignment" does not include an appraisal review or quality control examination.'

Amend the bill in section 1 in §14042 in subsection 3 in the first and 2nd lines (page 1, lines 14 and 15 in L.D.) by striking out the following: "an entity" and inserting the following: 'a person'

Amend the bill in section 1 in §14042 in subsection 3 by striking out all of paragraph A (page 1, lines 16 to 20 in L.D.) and inserting the following:

'A. Provides appraisal management services to creditors or secondary mortgage market participants with appraisers who are part of an appraiser panel that includes more than 15 appraisers who are independent contractors.'

Amend the bill in section 1 in §14042 in subsection 3 in paragraph B in the first line (page 1, line 21 in L.D.) by inserting after the following: "Provides" the following: 'appraisal management'

Amend the bill in section 1 in §14042 by striking out all of subsections 5 and 6 (page 2, lines 9 to 16 in L.D.) and inserting the following:

COMMITTEE AMENDMENT

1 **5. Appraisal review.** "Appraisal review" means the act or process of developing
2 and communicating an opinion about the quality of the work performed by an appraiser
3 as part of an appraisal assignment, which may take into account the appraiser's data
4 collection, analysis, opinions, conclusions, estimate of value or compliance with the
5 Uniform Standards of Professional Appraisal Practice. "Appraisal review" does not
6 include a quality control examination.

7 **6. Appraisal service.** "Appraisal service" means an act or process of completing an
8 appraisal assignment.'

9 Amend the bill in section 1 in §14042 in subsection 8 in the 2nd line (page 2, line 19
10 in L.D.) by inserting after the following: "perform appraisals" the following: 'as
11 independent contractors'

12 Amend the bill in section 1 in §14043 in the first line (page 4, line 21 in L.D.) by
13 striking out the following: "**Registration**" and inserting the following: '**License**'

14 Amend the bill in section 1 in §14043 in subsection 1 by striking out all of the first
15 line (page 4, line 22 in L.D.) and inserting the following:

16 '**1. License.** A person shall obtain a license from the board before:'

17 Amend the bill in section 1 in §14043 in subsection 2 in the first line (page 4, line 29
18 in L.D.) by striking out the following: "registration" and inserting the following:
19 'licensure'

20 Amend the bill in section 1 in §14043 in subsection 2 in the last line (page 4, line 32
21 in L.D.) by striking out the following: "initial registration or an application for renewal of
22 a registration" and inserting the following: 'an initial license or an application for renewal
23 of a license'

24 Amend the bill in section 1 in §14043 by striking out all of subsection 3 (page 4, lines
25 33 and 34 in L.D.).

26 Amend the bill in section 1 in §14043 in subsection 4 in the first line (page 4, line 35
27 in L.D.) by striking out the following: "registration" and inserting the following:
28 'licensure'

29 Amend the bill in section 1 in §14043 in subsection 5 in the first line (page 5, line 1
30 in L.D.) by striking out the following: "registered" and inserting the following: 'licensed'

31 Amend the bill in section 1 in §14043 in subsection 5 in the 2nd line (page 5, line 2 in
32 L.D.) by striking out the following: "registered" and inserting the following: 'licensed'

33 Amend the bill in section 1 in §14043 in subsection 6 in the 3rd line (page 5, line 7 in
34 L.D.) by striking out the following: "register with" and inserting the following: 'obtain a
35 license from'

36 Amend the bill in section 1 in §14043 by renumbering the subsections to read
37 consecutively.

38 Amend the bill by striking out all of §14044 and §14045 (page 5, lines 13 to 28 in
39 L.D.) and inserting the following:

1 **§14044. License renewal**

2 A license expires on the date set by the Commissioner of Professional and Financial
3 Regulation pursuant to Title 10, section 8003, subsection 4 for the licensing period for
4 which the license was issued. A license may be renewed upon receipt of an application
5 for renewal and payment of the renewal fee as set under section 14045. Licenses may be
6 renewed up to 90 days after the date of expiration upon payment of a late fee, as set under
7 section 14045.

8 The board shall deny a renewal license to any applicant whose license has lapsed for
9 more than 90 days unless the applicant satisfies the provisions governing new applicants
10 under this subchapter.

11 **§14045. Fees**

12 **1. Fee established by rule.** The Director of the Office of Professional and
13 Occupational Regulation within the Department of Professional and Financial Regulation
14 may establish by rule fees for purposes authorized under this chapter in amounts that are
15 reasonable and necessary for their respective purposes, except that the fee for any one
16 purpose may not exceed \$450 annually. Rules adopted pursuant to this section are
17 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

18 **2. National registry fees.** The board may collect from an applicant for licensure
19 under this chapter and from a licensee and remit to the appropriate agency or
20 instrumentality of the Federal Government any additional fees required to provide
21 appraisal management services in connection with federally related transactions.'

22 Amend the bill in section 1 in §14046 by striking out all of subsection 1 (page 5, lines
23 30 to 35 in L.D.) and inserting the following:

24 **'1. License or certification as appraiser.** An appraisal management company
25 licensed or applying for or renewing a license under this chapter may not be owned in
26 whole or in part, directly or indirectly, by a person that has had a license or certificate to
27 act as an appraiser refused, denied, cancelled, revoked or surrendered in lieu of a pending
28 revocation in any state for substantive cause. An appraisal management company is not
29 ineligible for a license under this subsection if the person's license or certificate to act as
30 an appraiser was not revoked for substantive cause and the person has subsequently had
31 the license or certificate granted or reinstated.'

32 Amend the bill in section 1 in §14047 in subsection 1 in the 2nd line (page 6, line 4 in
33 L.D.) by striking out the following: "registration or for renewal of a registration" and
34 inserting the following: 'license or for renewal of a license'

35 Amend the bill in section 1 in §14047 in subsection 2 in paragraph B in the last line
36 (page 6, line 11 in L.D.) by inserting after the following: "pending revocation" the
37 following: 'for substantive cause'

38 Amend the bill in section 1 in §14048 by striking out all of the first paragraph (page
39 6, lines 15 and 16 in L.D.) and inserting the following:

40 'An appraisal management company that is licensed or applies for a license or
41 renewal of a license may not.'

1 Amend the bill in section 1 in §14048 in subsection 1 in the last line (page 6, line 21
2 in L.D.) by inserting after the following: "revocation" the following: 'unless the license or
3 certificate was subsequently granted or reinstated'

4 Amend the bill in section 1 in §14048 in subsection 2 in the last line (page 6, line 25
5 in L.D.) by inserting after the following: "revocation" the following: 'unless the license or
6 certificate was subsequently granted or reinstated'

7 Amend the bill in section 1 by striking out all of §14049 and inserting the following:

8 **§14049. Denial of license**

9 In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A,
10 paragraph A, the board may deny a license, refuse to renew a license or impose the
11 disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

12 **1. Lack of trustworthiness.** Lack of trustworthiness and competence to conduct
13 appraisal management services in a manner that safeguards the interests of the public;

14 **2. Misconduct.** The commission of an act or omission in the practice of appraisal
15 management services that constitutes dishonesty, fraud or misrepresentation with the
16 intent to benefit the licensee or another person or with the intent to injure another person;

17 **3. Court judgment.** The entry of a final civil or criminal judgment against the
18 licensee on grounds of fraud, misrepresentation or deceit in the provision of appraisal
19 management services;

20 **4. Unauthorized payment.** Payment of a finder's fee or a referral fee to a person
21 who does not have an appraiser license under chapter 124 in connection with appraisal
22 management services;

23 **5. Misrepresentation of professional qualifications.** Permitting an employee of
24 the licensee or a member of the licensee's appraisal panel to make a false or misleading
25 statement in that portion of a written appraisal report that deals with professional
26 qualifications or in any testimony concerning professional qualifications;

27 **6. Predetermined appraisal result.** Accepting a fee for performing an appraisal
28 service when, in fact, the fee is or was contingent upon the appraiser's reporting a
29 predetermined analysis, opinion or conclusion or is or was contingent upon the analysis,
30 opinion, conclusion or valuation reached or upon the consequences resulting from the
31 appraisal assignment;

32 **7. Lack of diligence.** Failure or refusal, without good cause, to exercise reasonable
33 diligence in providing appraisal management services;

34 **8. Negligence or incompetence.** Negligence or incompetence in performing
35 appraisal management services;

36 **9. Breach of confidentiality.** A violation of the confidential nature of individual,
37 business or governmental records to which a licensee or applicant gained access through
38 employment or engagement as an appraisal management company;

39 **10. Suspension or revocation of license.** Having had a professional or occupational
40 license suspended or revoked for disciplinary reasons or an application rejected for
41 reasons related to untrustworthiness within 3 years prior to the date of application; and

1 **11. Failure to meet professional qualifications; failure to submit complete**
2 **application.** Failure to meet the professional qualifications for licensure as provided in
3 this chapter or failure to submit a complete application within 30 days after being notified
4 of the materials needed to complete the application.'

5 Amend the bill in section 1 in §14049-D in subsection 2 by striking out all of the first
6 and 2nd lines (page 8, lines 17 and 18 in L.D.) and inserting the following:

7 '**2. Record keeping.** An appraisal management company licensed or applying to be
8 license or to renew a licensed in this State shall.'

9 Amend the bill in section 1 in §14049-D in subsection 2 in the blocked paragraph in
10 the first line (page 8, line 27 in L.D.) by striking out the following: "registered" and
11 inserting the following: 'licensed'

12 Amend the bill in section 1 by striking out all of §14049-E and inserting the
13 following:

14 **'§14049-E. Compensation of appraisers**

15 An appraisal management company shall compensate appraisers in accordance with
16 the appraisal independence standards established under the federal Truth in Lending Act,
17 15 United States Code, Section 1639e (2016) and its implementing regulations, 12 Code
18 of Federal Regulations, Section 1026.42 (2016). Except in cases of breach of contract or
19 substandard performance of an appraisal service, an appraisal management company shall
20 make payment to an appraiser for the completion of an appraisal service within 45 days
21 of the date on which the appraiser transmits or otherwise provides the results of the
22 completed appraisal service to the appraisal management company.'

23 Amend the bill in section 1 in §14049-G in subsection 1 in the first line (page 9, line
24 20 in L.D.) by striking out the following: "registered" and inserting the following:
25 'licensed'

26 Amend the bill in section 1 in §14049-G in subsection 1 in the 2nd line (page 9, line
27 21 in L.D.) by striking out the following: "registered" and inserting the following:
28 'licensed'

29 Amend the bill in section 1 in §14049-G in subsection 1 in paragraph Q by striking
30 out all of subparagraph (1) (page 10, lines 37 to 39 in L.D.) and inserting the following:

31 '(1) Complete an appraisal service if the appraiser determines the appraiser does
32 not have the necessary expertise for the specific geographic area, the appraiser
33 has notified the company of that determination and the appraiser has declined the
34 assignment.'

35 Amend the bill in section 1 in §14049-G in subsection 1 in paragraph Q in
36 subparagraph (2) in the last line (page 11, line 3 in L.D.) by inserting after the following:
37 "belief" the following: 'and has declined the assignment'

38 Amend the bill in section 1 by striking out all of §14049-I, §14049-J, §14049-L and
39 §14049-M.

1 Amend the bill in section 1 in §14049-N in subsection 2 in the last line (page 13, line
2 19 in L.D.) by striking out the following: "registration" and inserting the following:
3 'licensure pursuant to Title 10, section 8003'

4 Amend the bill in section 1 in §14049-N in subsection 3 in the last line (page 13, line
5 21 in L.D.) by striking out the following: "registration" and inserting the following:
6 'license pursuant to Title 10, section 8003'

7 Amend the bill in section 1 in §14049-N in subsection 6 in the first line (page 13, line
8 27 in L.D.) by inserting after the following: "investigations" the following: 'pursuant to
9 'Title 10, chapter 901'

10 Amend the bill in section 1 in §14049-N by striking out all of subsection 7 (page 13,
11 line 30 to 33 in L.D.) and inserting the following:

12 '7. Discipline. Discipline an appraisal management company or suspend, terminate
13 or refuse to renew the license of an appraisal management company that violates this
14 chapter, a rule adopted pursuant to this chapter or an order issued pursuant to this chapter
15 pursuant to Title 10, section 8003, except that the board may impose a civil penalty of up
16 to \$5,000 for each violation of applicable laws, rules or conditions of licensure or for
17 each instance of actionable conduct or activity; and'

18 Amend the bill in section 1 by adding after §14049-N the following:

19 '**§14049-O. Repeal; board report**

20 **1. Repeal.** This chapter is repealed on March 15, 2018.

21 **2. Report.** The board shall submit a report to the joint standing committee of the
22 Legislature having jurisdiction over business matters by January 1, 2018 indicating
23 whether Section 1124 of the federal Dodd-Frank Wall Street Reform and Consumer
24 Protection Act (2010) has been repealed or substantially amended by federal legislation.
25 The committee may report out a bill to the Legislature related to the report.'

26 Amend the bill in section 1 in chapter 124-A by renumbering the sections to read
27 consecutively.

28 **SUMMARY**

29 This amendment, which is the unanimous report of the committee, clarifies that
30 appraisal management companies must be licensed, not registered, by the Board of Real
31 Estate Appraisers. The amendment makes several changes to the bill to comply with the
32 federal Dodd-Frank Wall Street Reform and Consumer Protection Act as well as to
33 provide appropriate cross-references to the laws governing licensing boards within the
34 Department of Professional and Financial Regulation, Office of Professional and
35 Occupational Regulation in the Maine Revised Statutes, Title 10, chapter 901.

36 The amendment adds a provision repealing the statute establishing licensure of
37 appraisal management companies on March 15, 2018. The Board of Real Estate
38 Appraisers is required to submit a report to the Joint Standing Committee on Labor,
39 Commerce, Research and Economic Development by January 1, 2018 indicating whether
40 the federal Dodd-Frank Wall Street Reform and Consumer Protection Act has been

COMMITTEE AMENDMENT “ ” to H.P. 939, L.D. 1349

1 repealed or substantially amended. The committee may report out a bill related to the
2 report.

3

FISCAL NOTE REQUIRED

4

(See attached)