



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 113
[2017 Senate Bill 453]

**Appraisal Management
Companies**

2017 Wisconsin Act 113 implements requirements of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the regulation of appraisal management companies (AMCs).¹ As summarized below, the Act requires AMCs to obtain a license before performing appraisal management services for compensation or advertising appraisal management services or holding itself out as an AMC. The Act establishes certain requirements and limitations that apply to licensed AMCs.

NONAPPLICABILITY IF FEDERAL LAW IS CHANGED

The Act specifies that the licensing requirement and related provisions of the Act do not apply in the event that federal law is amended or repealed so as to allow nonfederally regulated AMCs to perform services related to a federal related transaction without being required to be subject to state registration and regulation.

REAL ESTATE APPRAISERS BOARD COMPOSITION

The Act modifies the composition of the Real Estate Appraisers Board (the “Board”) to replace one public member with a representative of an AMC.

¹ Under federal law, incorporated for this purpose by the Act, “appraisal management company” means a person that does all of the following: (a) provides appraisal management services to creditors or secondary mortgage market participants; (b) provides such services in connection with valuing a consumer’s principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and (c) within a specified 12-month period, oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a single state or 25 or more state-certified or state-licensed appraisers in two or more states. [12 C.F.R. s. 34.211 (c).]

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

LICENSING REQUIREMENT

The Act generally requires a person to obtain a license from the Department of Safety and Professional Services (DSPS) before performing appraisal management services for compensation, advertising that the person is an AMC, using the title "licensed AMC," or otherwise holding itself out as an AMC.²

In addition to specified contact information and authorizations necessary to conduct a background investigation for relevant individuals, the Act requires an applicant for a license to submit a statement certifying all of the following information:

- That the applicant has in place a system to verify that each independent appraiser on the applicant's appraiser panel and any other appraiser that may perform an appraisal service for the applicant is a certified appraiser or licensed appraiser.
- That the applicant requires all appraisers performing appraisal services for the applicant to perform appraisal services in accordance with specified uniform practice standards.
- That the applicant has in place a system to verify that all appraisal services performed for the applicant are conducted independently and free from inappropriate influence or coercion as required by state and federal law.
- That the applicant maintains a detailed record of each request for an appraisal service that it receives, including the identity of the appraiser that performs the appraisal service.
- That the applicant is not owned in whole or part, directly or indirectly, by a person (or a person that is more than 10% owned by a person) who has been subject to certain disciplinary actions in any state.

An applicant must also designate one controlling individual who will be primary contact for all communications between DSPS and the licensed AMC. The controlling individual must be a certified appraiser of good moral character who is in good standing in this and any other relevant state and who has never been subject to certain disciplinary actions.

After DSPS conducts a background investigation that satisfies certain federal requirements, the Act requires DSPS to grant and issue an AMC license if the AMC complied with the application requirements described above, paid a fee in an amount determined by DSPS (but not more than \$4,000), and meets any other licensure requirements promulgated by DSPS.

The Act requires DSPS to publish a list of all current licensed AMCs and their license numbers.

² The Act exempts certain entities from the licensing requirement, including appraisers that co-sign appraisals conducted by an independent appraiser pursuant to a contract; federally regulated AMCs; certain departments and units of financial institutions, if another employee of the financial institution requests an appraisal and the request is assigned to an independent contractor to the institution; and AMCs that do not contract with independent appraisers for the performance of appraisal services.

REQUIREMENTS OF LICENSED AMCS

The Act requires a licensed AMC to do all of the following:

- Verify an appraiser's competency and credentials before assigning an appraisal service to the appraiser.
- Require an appraiser to confirm the appraiser's competency in writing at or before the time an appraiser accepts an appraisal services assignment from the licensed AMC.
- Before adding an appraiser to an appraiser panel, require the appraiser to submit specified information regarding the geographic areas, types of properties, and methodologies for which the appraiser is competent to perform.
- Regularly review appraisers' work to ensure that the services comply with specified uniform standards and DSPS rules.
- Compensate appraisers at a rate that is reasonable and customary for appraisal services performed in the relevant market area, in accordance with specified federal rules.
- Separately state certain fees and charges in any report or other written communication pertaining to the cost of a specific appraisal assignment.
- Maintain certain records for at least five years, or two years after final disposition of any court proceeding concerning an appraisal service, whichever is later.
- Ensure that appraisals conducted for the licensed AMC are conducted independently and free from inappropriate influence or coercion, consistent with state and federal law.
- Display its license number on all print or electronic advertising and on certain engagement letters and solicitations.

PROHIBITED ACTIONS OF LICENSED AMCS

The Act prohibits a licensed AMC from doing any of the following:

- Contracting with an appraiser for the performance of an appraisal service, unless the appraiser is a certified appraiser or licensed appraiser.
- Employing any person in a position in which the person has the responsibility to request appraisal services or review the results of completed appraisal services if the person has been subject to certain disciplinary actions.
- Contracting with an appraiser for the provision of appraisal services if the appraiser has been subject to certain disciplinary actions.
- Contracting with any person for the provision of appraisal services if the licensed AMC knows or has reason to know that the person employs or is under contract with a person who has been subject to certain disciplinary actions.

- With limited exceptions, failing to pay an appraiser for completed appraisal service within 30 days after the appraiser's work product has been delivered to a client.
- Including any fee for appraisal management services performed by the licensed AMC in the amount the licensed AMC reports as charges for the actual completion of an appraisal service by an appraiser.
- Prohibiting an appraiser from showing the fee that the licensed AMC paid to the appraiser in an appraisal report or other document.
- Requiring an appraiser to state or affirm that any fees the licensed AMC paid to the appraiser were reasonable and customary.
- Taking one of several specified actions to inappropriately influence or coerce, or attempt to inappropriately influence or coerce, an appraiser.
- Changing an appraisal report or other results of an appraisal service submitted to the licensed AMC.
- Requiring an appraiser to change an appraisal report or other results of an appraisal service.
- Requiring an appraiser to complete an appraisal service if the appraiser notifies the licensed AMC that, in the appraiser's professional judgment, the appraiser does not have necessary expertise to conduct the appraisal.
- Interfering in any way with an appraiser's ability to obtain information relevant to an appraisal service.
- Requiring an appraiser to engage in any conduct that does not comply with specified uniform standards or lawful conditions imposed by a client.

ENFORCEMENT

The Act requires DSPS to conduct an investigation concerning an AMC upon a motion of the Board, upon DSPS's own motion, or upon a complaint filed with DSPS or the Board. The Act requires DSPS to present the findings of such investigations to the Board. Upon a motion of the Board or upon DSPS's own motion following such an investigation, the Act requires DSPS to commence disciplinary proceedings, which are conducted by the Board.

The Act authorizes DSPS to deny a license, and it authorizes the Board to limit, suspend, or revoke a license or impose a forfeiture, if DSPS or the Board determines that an AMC did any of the following:

- Made a material misstatement in an application for a license or renewal of a license under the Act or in any other information provided to the Board or department.
- Engaged in unprofessional or unethical conduct, as determined by DSPS by rule.
- Engaged in conduct in the course of conducting business as an AMC that evidences a lack of knowledge or ability to apply professional principles or skills.

- Had a license or other credential to act as an appraiser in any state denied, refused, canceled, revoked, or surrendered in lieu of a revocation, unless that license or other credential was later granted or reinstated.
- Advertised in a manner that is false, deceptive, or misleading.
- Advertised, practiced, or attempted to practice as an AMC under another person's name.
- Provided appraisal management services while the individual's ability to practice was impaired by alcohol or other drugs. (The Act specifies that disciplinary actions on this basis are subject to limitations in state employment discrimination laws.)
- Provided appraisal services or appraisal management services where the value of real estate provided in the appraisal report was based on the racial composition of the area in which the real estate is located.
- Violated the requirements of the Act or any rule promulgated pursuant to the Act.

In addition to administrative actions described above, the Act provides for a forfeiture of not more than \$10,000 for violations of the Act or rules promulgated pursuant to the Act.

Effective date: The Act generally takes effect on July 1, 2018. However, a provision authorizing DSPS to promulgate rules took effect on December 2, 2017.

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