



State of Wisconsin
2017 - 2018 LEGISLATURE

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2017 ASSEMBLY BILL 533

October 12, 2017 - Introduced by Representatives ALLEN, KATSMA, YOUNG, KNODL, PETERSEN, KOOYENGA, GENRICH, DOYLE and PETRYK, cosponsored by Senators CRAIG, LASEE, NASS and BEWLEY. Referred to Committee on Housing and Real Estate.

1 **AN ACT to amend** 15.405 (10r) (a) 3., 20.165 (1) (g), 440.03 (9) (a) (intro.), 458.03
2 (1) (c), 458.03 (2), 458.03 (3) (a), 458.03 (3) (b), 458.085 (1), 458.085 (2), 458.085
3 (3), 458.095 (intro.), 458.105, 458.13, 458.21, 458.26 (2), 458.26 (3) (intro.),
4 458.26 (3) (i), 458.26 (4) and 458.30; and **to create** 15.405 (10r) (a) 1m., 440.03
5 (13) (b) 5s., 440.08 (2) (a) 10m., subchapter I (title) of chapter 458 [precedes
6 458.01], 458.01 (2m), 458.01 (3m), 458.03 (1) (dm), 458.03 (3) (c), 458.04 (3),
7 subchapter II (title) of chapter 458 [precedes 458.055] and subchapter III of
8 chapter 458 [precedes 458.31] of the statutes; **relating to:** regulation of
9 appraisal management companies, providing an exemption from emergency
10 rule procedures, granting rule-making authority, and providing a criminal
11 penalty.

Analysis by the Legislative Reference Bureau

This bill provides for the regulation of certain appraisal management companies (AMCs) pursuant to provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted in 2010 (the act). Under current state law, the state does not regulate AMCs. However, the Department of Safety and

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Professional Services and the Real Estate Appraisers Board regulate appraisers. The bill provides for regulation of AMCs by DSPS and the board pursuant to the act and regulations promulgated thereunder.

FEDERAL LAW; DODD-FRANK ACT; FEDERAL REGULATIONS

“Appraisal management company” is defined under the act as “in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer’s principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year a) to recruit, select, and retain appraisers; b) to contract with licensed and certified appraisers to perform appraisal assignments; c) to manage the process of having an appraisal performed ... ; or d) to review and verify the work of appraisers.”

Under the act, a number of federal agencies are required, by rule, to jointly establish minimum requirements to be applied by a state in the registration of AMCs. The minimum requirements include that an AMC must a) register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which the AMC operates; b) verify that only licensed or certified appraisers are used for federally related transactions; c) require that appraisals coordinated by an AMC comply with the Uniform Standards of Professional Appraisal Practice; and d) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to standards established under the Truth in Lending Act. Under the act, an AMC that is owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency is not required to be registered with the state, but is otherwise required to comply with the requirements described above.

Also under the act, an AMC may not be registered by a state if the AMC is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state. In addition, each person that owns more than 10 percent of an AMC must be of good moral character, as determined by the state appraiser certifying and licensing agency, and must submit to a background investigation carried out by the state appraiser certifying and licensing agency. Finally, under the act, a national registry must be maintained of AMCs that either are registered with and subject to supervision of a state appraiser certifying and licensing agency or are operating subsidiaries of a federally regulated financial institution. A state with an appraiser certifying and licensing agency must collect an annual registry fee from an AMC that has registered with a state or that operates as a subsidiary of a federally related financial institution.

The act prohibits an AMC from performing services related to a federally related transaction in a state after the date that is 36 months after the date on which the federal regulations described above are finalized unless the AMC is registered with the state or subject to oversight by a federal financial institutions regulatory agency, subject to an additional 12-month extension that may be granted if certain

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conditions are met. The final federal regulations became effective on August 10, 2015, meaning that an AMC cannot perform services related to a federally related transaction in a state after August 10, 2018, unless the AMC is registered with the state.

THE BILL

The bill implements the provisions in the Act described above and establishes provisions for the licensure of AMCs, described in further detail as follows:

1. The bill prohibits the performance of appraisal management services for compensation, or the use of the title “appraisal management company” or “licensed appraisal management company” by any person unless the person is licensed by DSPS. The bill requires DSPS to grant and issue a license to an AMC if the AMC a) submits certain information; b) pays a fee; and c) meets any other applicable requirements. Certain persons, including persons who own more than 10 percent of the AMC, must submit to background investigations prior to the AMC’s licensure, and the applicant must be determined by DSPS to have good moral character in order for the AMC to be licensed. As provided in the act, federally regulated AMCs are not required to be licensed, but must comply with other provisions in the bill.

2. The bill creates prohibitions on AMCs and establishes ownership limitations for AMCs.

3. The bill requires applicants for an AMC license to designate a controlling individual to be the primary contact for all communications between DSPS and the AMC. Such a controlling individual must meet certain criteria in order to be so designated.

4. The bill requires AMCs that perform appraisal management services in federally related transactions to pay the annual registry fee to DSPS, pursuant to the act as described above. The bill requires DSPS to transmit the fees to the Federal Financial Institutions Examination Council.

5. The bill establishes requirements that an AMC must satisfy before assigning appraisal services to an AMC, adding appraisers to an appraiser panel, or assigning appraisal reviews. The bill also requires AMCs to regularly review the work of appraisers performing appraisal services for the AMC to ensure they comply with the Uniform Standards of Professional Appraisal Practice.

6. The bill requires AMCs to compensate appraisers at a rate that is reasonable and customary, and establishes other requirements with respect to the payment and statement of fees by AMCs.

7. The bill establishes record-keeping requirements for AMCs and allows DSPS to audit those records.

8. The bill establishes requirements and prohibitions to ensure appraiser independence, consistent with federal law. The bill also establishes limitations on the removal of appraisers from AMC appraiser panels and allows DSPS to order reinstatement of an appraiser to an appraiser panel in certain cases.

9. The bill provides for discipline of AMCs by DSPS and the board, and requires DSPS to report violations of applicable laws to the federal Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

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10. The bill makes a violation of provisions established in the bill subject to a fine of not more than \$10,000.

The bill also modifies provisions in current law pertaining to the regulation of appraisers to also reference AMCs. Finally, the bill removes from the Real Estate Appraisers Board one public member and replaces it with a controlling individual of an AMC.

The bill provides that the provisions in the bill do not apply if federal law is amended or repealed so as to allow AMCs that are not federally regulated AMCs to perform services related to a federally related transaction without being required to register with and be subject to supervision by a state appraiser certifying and licensing agency as required under the act.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.405 (10r) (a) 1m. of the statutes is created to read:

2 15.405 (**10r**) (a) 1m. One controlling individual, as defined in s. 458.31 (6). This
3 subdivision does not apply if s. 458.48 applies.

4 **SECTION 2.** 15.405 (10r) (a) 3. of the statutes is amended to read:

5 15.405 (**10r**) (a) 3. ~~Three~~ Two public members or, if s. 458.48 applies, 3 public
6 members.

7 **SECTION 3.** 20.165 (1) (g) of the statutes is amended to read:

8 20.165 (**1**) (g) *General program operations.* The amounts in the schedule for
9 the licensing, rule making, and regulatory functions of the department, other than
10 the licensing, rule-making, and credentialing functions of the medical examining
11 board and the affiliated credentialing boards attached to the medical examining
12 board and except for preparing, administering, and grading examinations. Ninety
13 percent of all moneys received under chs. 440 to 480, except ch. 448 and ss. 440.03
14 (13), 440.05 (1) (b), 458.21, and 458.365, less \$10 of each renewal fee received under

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1 s. 452.12 (5); all moneys transferred from the appropriation under par. (i); and all
2 moneys received under s. 440.055 (2), shall be credited to this appropriation.

3 **SECTION 4.** 440.03 (9) (a) (intro.) of the statutes is amended to read:

4 440.03 (9) (a) (intro.) Subject to pars. (b) and (c) and s. 458.33 (2) (b) and (5),
5 the department shall, biennially, determine each fee for an initial credential for
6 which no examination is required, for a reciprocal credential, and for a credential
7 renewal by doing all of the following:

8 **SECTION 5.** 440.03 (13) (b) 5s. of the statutes is created to read:

9 440.03 (13) (b) 5s. Appraisal management company.

10 **SECTION 6.** 440.08 (2) (a) 10m. of the statutes is created to read:

11 440.08 (2) (a) 10m. Appraisal management company: December 15 of each
12 odd-numbered year.

13 **SECTION 7.** Subchapter I (title) of chapter 458 [precedes 458.01] of the statutes
14 is created to read:

15 **CHAPTER 458**

16 **SUBCHAPTER I**

17 **GENERAL PROVISIONS**

18 **SECTION 8.** 458.01 (2m) of the statutes is created to read:

19 458.01 (2m) “Appraisal management company” has the meaning given in 12
20 CFR 34.211 (c).

21 **SECTION 9.** 458.01 (3m) of the statutes is created to read:

22 458.01 (3m) “Appraisal subcommittee” has the meaning given in 12 USC 3350
23 (2).

24 **SECTION 10.** 458.03 (1) (c) of the statutes is amended to read:

ASSEMBLY BILL 533**SECTION 10**

1 458.03 (1) (c) Submit to the board a copy of any legislation proposed by the
2 department relating to appraisers or appraisal management companies or to the
3 board, prior to introduction in the legislature.

4 **SECTION 11.** 458.03 (1) (dm) of the statutes is created to read:

5 458.03 (1) (dm) Transmit the annual registry fees paid to the department under
6 s. 458.365 to the federal financial institutions examination council or its successor
7 agency.

8 **SECTION 12.** 458.03 (2) of the statutes is amended to read:

9 458.03 (2) The department may prepare letters and bulletins and conduct
10 clinics disseminating information to appraisers and appraisal management
11 companies.

12 **SECTION 13.** 458.03 (3) (a) of the statutes is amended to read:

13 458.03 (3) (a) Advise the secretary on matters relating to appraisers or
14 appraisal management companies or to the board.

15 **SECTION 14.** 458.03 (3) (b) of the statutes is amended to read:

16 458.03 (3) (b) At least once each year, transmit to the appraisal subcommittee
17 ~~of the federal financial institutions examination council, or its successor agency,~~ a
18 roster listing the names and addresses of certified appraisers and licensed
19 appraisers.

20 **SECTION 15.** 458.03 (3) (c) of the statutes is created to read:

21 458.03 (3) (c) Transmit reports to the appraisal subcommittee on a timely basis
22 of supervisory activities involving appraisal management companies or other
23 3rd-party providers of appraisals and appraisal management services, as defined in
24 s. 458.31 (2), including investigations initiated and disciplinary actions taken.

25 **SECTION 16.** 458.04 (3) of the statutes is created to read:

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1 **458.095 Temporary use of titles; appraisers certified or licensed in**
2 **other states.** (intro.) A certificate under this ~~chapter~~ subchapter is not required for
3 an appraiser who holds a current appraiser certificate in another state if all of the
4 following apply:

5 **SECTION 22.** 458.105 of the statutes is amended to read:

6 **458.105 Certificate number.** The department shall assign a certificate
7 number to each individual who is certified or licensed under this ~~chapter~~ subchapter
8 and shall place the number upon each certificate prior to its issuance.

9 **SECTION 23.** 458.13 of the statutes is amended to read:

10 **458.13 Continuing education requirements.** At the time of renewal of a
11 certificate issued under this ~~chapter~~ subchapter, each applicant shall submit proof
12 that, within the 2 years immediately preceding the date on which the renewal
13 application is submitted, he or she has satisfied the continuing education
14 requirements specified in the rules promulgated under s. 458.085 (3).

15 **SECTION 24.** 458.21 of the statutes is amended to read:

16 **458.21 Appraisals in federally related transactions; annual registry**
17 **fee required.** Each certified appraiser or licensed appraiser who performs or
18 desires to perform an appraisal in a federally related transaction shall pay to the
19 department the annual registry fee required by the ~~federal financial institutions~~
20 ~~examination council~~ appraisal subcommittee or its successor agency.

21 **SECTION 25.** 458.26 (2) of the statutes is amended to read:

22 **458.26 (2)** The department shall present the findings of any investigation of
23 an appraiser or an applicant for a certificate under this ~~chapter~~ subchapter to the
24 board for its consideration. The department shall, upon motion of the board, and

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1 may, upon its own determination, commence disciplinary proceedings on any matter
2 under investigation concerning a certified appraiser, licensed appraiser or applicant.

3 **SECTION 26.** 458.26 (3) (intro.) of the statutes is amended to read:

4 458.26 (3) (intro.) Disciplinary proceedings shall be conducted by the board
5 according to the rules promulgated under s. 440.03 (1). The department may deny
6 any certificate under this ~~chapter~~ subchapter, and the board may limit, suspend or
7 revoke any certificate under this ~~chapter~~ subchapter or reprimand or impose
8 additional continuing education requirements on the holder of a certificate under
9 this ~~chapter~~ subchapter, if the department or board finds that the applicant for or
10 holder of the certificate has done any of the following:

11 **SECTION 27.** 458.26 (3) (i) of the statutes is amended to read:

12 458.26 (3) (i) Violated this ~~chapter~~ subchapter or any rule promulgated under
13 this ~~chapter~~ subchapter.

14 **SECTION 28.** 458.26 (4) of the statutes is amended to read:

15 458.26 (4) In addition to or in lieu of a reprimand or denial, limitation,
16 suspension or revocation of a certificate under sub. (3), the board may assess against
17 a certified appraiser, licensed appraiser or applicant for a certificate under this
18 ~~chapter~~ subchapter a forfeiture of not less than \$100 nor more than \$1,000 for each
19 violation enumerated under sub. (3).

20 **SECTION 29.** 458.30 of the statutes is amended to read:

21 **458.30 Penalties.** Any person who violates this ~~chapter~~ subchapter or any
22 rule promulgated under this ~~chapter~~ subchapter may be fined not more than \$1,000
23 or imprisoned for not more than 6 months or both.

24 **SECTION 30.** Subchapter III of chapter 458 [precedes 458.31] of the statutes is
25 created to read:

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CHAPTER 458

SUBCHAPTER III

REAL ESTATE APPRAISAL

MANAGEMENT COMPANIES

458.31 Definitions. In this subchapter:

(1) “Appraisal management company” has the meaning given in 12 CFR 34.211

(c).

(2) “Appraisal management services” has the meaning given in 12 CFR 34.211

(d).

(3) (a) Except as provided in par. (b), “appraisal review” means the process of developing and communicating an opinion about the quality of another appraiser’s work that was performed as part of an appraisal assignment or appraisal review assignment related to the appraiser’s data collection, analysis, opinions, conclusions, estimate of value, or compliance with the Uniform Standards of Professional Appraisal Practice described in s. 458.24.

(b) “Appraisal review” does not include any of the following:

1. A general examination for grammatical, typographical, mathematical, or other similar errors.

2. A general examination for completeness, including regulatory or client requirements as specified in the agreement process, that does not communicate an opinion of value.

(4) “Appraiser panel” has the meaning given in 12 CFR 34.211 (e).

(5) “Client” means a person that contracts with an appraisal management company for the performance of appraisal management services for the person.

(6) “Controlling individual” means any of the following:

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1 (a) An owner, officer, or director of an appraisal management company.

2 (b) An individual who is authorized by an appraisal management company to
3 do all of the following:

4 1. Contract with a client.

5 2. Contract with an independent appraiser to perform an appraisal service.

6 (c) An individual who has, directly or indirectly, the power to direct or cause the
7 direction of the management or policies of an appraisal management company.

8 (7) “Federally regulated appraisal management company” has the meaning
9 given in 12 CFR 34.211 (k).

10 (8) “Independent appraiser” means an appraiser who performs an appraisal
11 service on an independent contractor basis.

12 (9) “Licensed appraisal management company” means an appraisal
13 management company licensed under s. 458.33.

14 (10) “Person” has the meaning given in 12 CFR 34.211 (m).

15 **458.32 Prohibited conduct.** Except as provided under s. 458.34, no appraisal
16 management company may do any of the following unless the company is a licensed
17 appraisal management company:

18 (1) Perform appraisal management services for compensation.

19 (2) Advertise that the person is an appraisal management company; use the
20 title “licensed appraisal management company,” “appraisal management company,”
21 or other similar title; or otherwise hold itself out as an appraisal management
22 company.

23 **458.33 Licensure. (1) APPLICATION.** A person applying for a license under sub.
24 (2) shall submit an application to the department on a form prescribed by the
25 department. The application shall include all of the following:

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1 (a) The applicant's name, address, and telephone number.

2 (b) If the applicant is not a business domiciled in this state, the name, address,
3 and telephone number of the applicant's agent for service of process in this state.

4 (c) The name, address, and telephone number of each person that owns more
5 than 10 percent of the applicant.

6 (d) The name, address, and telephone number of the applicant's designated
7 controlling individual under s. 458.36.

8 (e) A statement of the applicant in a form prescribed by the department that
9 certifies all of the following:

10 1. That the applicant has in place a system to verify that each independent
11 appraiser on the applicant's appraiser panel and any other appraiser that may
12 perform an appraisal service for the applicant is a certified appraiser or licensed
13 appraiser.

14 2. That the applicant requires all appraisers performing appraisal services for
15 the applicant to perform appraisal services in accordance with the Uniform
16 Standards of Professional Appraisal Practice described under s. 458.24.

17 3. That the applicant has in place a system to verify that all appraisal services
18 performed for the applicant are conducted independently and free from
19 inappropriate influence or coercion under s. 458.41 and under 15 USC 1639e and
20 rules promulgated under 15 USC 1639e.

21 4. That the applicant maintains a detailed record of each request for an
22 appraisal service that it receives, including the identity of the appraiser that
23 performs the appraisal service.

24 5. That the applicant satisfies s. 458.35 (2).

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1 (f) The information and authorizations necessary to conduct a background
2 investigation for all of the following:

3 1. Each person identified in par. (c).

4 2. The applicant's controlling individual designated under s. 458.36.

5 **(2) APPRAISAL MANAGEMENT COMPANY LICENSE.** The department shall, after an
6 investigation, grant and issue an appraisal management company license to an
7 appraisal management company that does all of the following:

8 (a) Complies with sub. (1).

9 (b) Pays the initial credential fee determined by the department under s.
10 440.03 (9) (a), but not to exceed \$4,000.

11 (c) Meets to the satisfaction of the department any other requirements for
12 licensure under this subchapter and under rules promulgated by the department.
13 The department shall promulgate rules under this paragraph that require an
14 applicant for a license under this subsection to demonstrate that the applicant is
15 qualified to competently perform appraisal management services in compliance with
16 all applicable state and federal laws.

17 **(3) INVESTIGATION.** The department shall conduct a background investigation
18 that satisfies 12 CFR 34.214 (b) (2) on each person specified under sub. (1) (f) 1. and
19 2.

20 **(4) DENIAL OF LICENSE OR RENEWAL.** The department may not issue or renew an
21 appraisal management company license if any of the following applies to any person
22 that owns more than 10 percent of the appraisal management company:

23 (a) The person is determined by the department not to have good moral
24 character.

25 (b) The person fails to submit to a background investigation under sub. (3).

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1 **(5) RENEWALS.** A licensed appraisal management company shall submit a
2 renewal application, along with the applicable renewal fee determined by the
3 department under s. 440.03 (9) (a), but not to exceed \$2,000, to the department on
4 a form prescribed by the department by the applicable renewal date specified under
5 s. 440.08 (2) (a). A renewal under this subsection is subject to sub. (4).

6 **458.34 Exemptions. (1)** A license under s. 458.33 (2) is not required for any
7 of the following:

8 (a) A person that, in the ordinary course of business, contracts with an
9 independent appraiser for the performance of an appraisal if upon completion of the
10 appraisal the person co-signs the appraisal report.

11 (b) A federally regulated appraisal management company.

12 (c) A department or unit within a financial institution that is subject to direct
13 regulation by an agency of the United States government that is a member of the
14 federal financial institutions examination council or its successor, or to regulation by
15 an agency of this state, and receives a request for the performance of an appraisal
16 from one employee of the financial institution, and another employee of the same
17 financial institution assigns the request for the appraisal to an appraiser that is an
18 independent contractor to the institution. An appraisal management company that
19 is a wholly owned subsidiary of a financial institution shall not be considered a
20 “department or unit within a financial institution” for purposes of this paragraph.

21 (d) An appraisal management company that does not contract with
22 independent appraisers for the performance of appraisal services.

23 **(2)** An appraisal management company that is exempt from licensure under
24 sub. (1) (b) may advertise as an appraisal management company but may not hold
25 itself out as a licensed appraisal management company.

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1 **(3)** An appraisal management company that is exempt from licensure under
2 sub. (1) (b) shall be considered a licensed appraisal management company for
3 purposes of, and shall comply with the provisions of, ss. 458.35, 458.365, 458.37,
4 458.38, 458.39, 458.41, 458.43, and 458.44.

5 **458.35 Limitations. (1)** No licensed appraisal management company may
6 do any of the following:

7 (a) Contract with an appraiser for the performance of an appraisal service
8 unless the appraiser is a certified appraiser or licensed appraiser.

9 (b) Employ any person in a position in which the person has the responsibility
10 to request appraisal services from an appraiser or to review the results of completed
11 appraisal services if the person has had a license or other credential to act as an
12 appraiser in any state denied, canceled, revoked, or surrendered in lieu of revocation
13 unless that license or other credential was later granted or reinstated.

14 (c) Contract with an appraiser for the provision of appraisal services if the
15 appraiser has had a license or other credential to act as an appraiser in any state
16 denied, canceled, revoked, or surrendered in lieu of revocation unless the license or
17 other credential was later granted or reinstated.

18 (d) Contract with any person for the provision of appraisal services if the
19 licensed appraisal management company knows or has reason to know that the
20 person employs or is under contract with an independent appraiser or other person
21 for the provision of appraisal services who, as a result of disciplinary action, has had
22 a license or other credential to act as an appraiser in any state denied, canceled,
23 revoked, or surrendered in lieu of revocation unless the license or other credential
24 was later granted or reinstated.

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1 (2) No licensed appraisal management company or applicant for a license
2 under s. 458.33 may be owned in whole or in part, directly or indirectly, by any of the
3 following:

4 (a) A person who, as a result of disciplinary action, has had a license or other
5 credential to act as an appraiser in any state denied, canceled, revoked, or
6 surrendered in lieu of revocation unless that license or other credential was later
7 granted or reinstated.

8 (b) A person that is more than 10 percent owned by another person if that other
9 person, as a result of disciplinary action, has had a license or other credential to act
10 as an appraiser in any state denied, canceled, revoked, or surrendered in lieu of
11 revocation unless that license or other credential was later granted or reinstated.

12 **458.36 Designated controlling individuals.** Each applicant for a license
13 under s. 458.33 shall designate one controlling individual who will be the primary
14 contact for all communications between the department and the appraisal
15 management company. An individual may be designated as a controlling individual
16 under this section only if he or she meets all of the following criteria:

17 (1) The individual is a certified appraiser.

18 (2) The individual remains in good standing in this state and in any other state
19 that has at any time issued the controlling individual an appraiser license or
20 certification.

21 (3) The individual has never had an appraiser license or certification in this
22 state or any other state refused, denied, canceled, revoked, or surrendered in lieu of
23 a pending disciplinary proceeding in any jurisdiction and not subsequently
24 reinstated or granted.

25 (4) The individual is of good moral character.

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1 (5) The individual submits to a background investigation under s. 458.33 (3).

2 **458.365 Appraisal management services in federally related**
3 **transactions; annual registry fee required.** Each licensed appraisal
4 management company that performs or desires to perform appraisal management
5 services in a federally related transaction shall pay to the department the annual
6 registry fee required by the appraisal subcommittee or its successor agency.

7 **458.37 Appraiser competency. (1)** (a) Before assigning an appraisal service
8 to an appraiser, a licensed appraisal management company shall verify that the
9 appraiser has the requisite license or certification, education, expertise, experience,
10 and competency necessary to complete the appraisal assignment for the particular
11 market and property type in accordance with the Uniform Standards of Professional
12 Appraisal Practice described under s. 458.24, and that the independent appraiser is
13 a certified appraiser or licensed appraiser in good standing with the board.

14 (b) A licensed appraisal management company that has reviewed the work of
15 an appraiser under sub. (4) shall consider the review for the purposes of verifying the
16 competency of an appraiser for future work.

17 **(2)** (a) Before assigning an appraisal service to an appraiser, a licensed
18 appraisal management company shall obtain a written declaration from the
19 appraiser that the appraiser satisfies all of the following:

20 1. The appraiser is competent, or will become competent, in the property type
21 of the assignment.

22 2. The appraiser is competent, or will become competent, in the geographical
23 area of the assignment.

24 3. The appraiser has, or will obtain, access to appropriate data sources for the
25 assignment.

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1 4. The appraiser will immediately notify the licensed appraisal management
2 company in writing if the appraiser later determines that he or she is not qualified
3 to complete the assignment under subd. 1., 2., or 3.

4 (b) An appraiser that intentionally misrepresents the information provided by
5 the appraiser to the licensed appraisal management company under par. (a) shall be
6 subject to disciplinary action by the board under s. 458.26 or removal from the
7 appraiser panel.

8 **(3)** (a) Before an appraiser is added to an appraiser panel, a licensed appraisal
9 management company shall require the appraiser to declare in writing the
10 geographic areas where the appraiser is competent to appraise, the types of
11 properties the appraiser is competent to appraise, and the methodologies the
12 appraiser is competent to perform. The appraisal management company shall
13 require the appraiser to update the information under this paragraph at least
14 annually and shall retain copies of all such declarations for a period of 5 years from
15 the date they are submitted.

16 (b) An appraiser that intentionally misrepresents the information provided by
17 the appraiser to a licensed appraisal management company under par. (a) shall be
18 subject to disciplinary action by the board under s. 458.26 or removal from the
19 appraiser panel.

20 **(4)** A licensed appraisal management company shall regularly review the work
21 of appraisers performing appraisal services for the appraisal management company
22 to ensure that the services comply with the Uniform Standards of Professional
23 Appraisal Practice described under s. 458.24 and with any standards prescribed by
24 the department by rule.

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1 **(5)** Before assigning to an appraiser an appraisal review of an appraisal of a
2 subject property located in this state, a licensed appraisal management company
3 shall verify that the appraiser performing the appraisal review holds a current
4 appraiser license or certificate in this state that is at least equivalent to the license
5 or certificate initially required for the subject property.

6 **458.38 Compensation of appraisers. (1)** A licensed appraisal management
7 company shall compensate appraisers at a rate that is reasonable and customary for
8 appraisal services being performed in the market area of the property being
9 appraised in accordance with 15 USC 1639e and rules promulgated under 15 USC
10 1639e.

11 **(2)** In any report or other written communication to a client, lender, or other
12 person, a licensed appraisal management company shall separately state the
13 following fees:

14 (a) Any fee paid to the appraiser for the completion of the appraisal service.

15 (b) Any fee charged to the client for the licensed appraisal management
16 company's appraisal management services.

17 **(3)** A licensed appraisal management company may not do any of the following:

18 (a) Fail, except in cases of breach of contract or for other good cause, to make
19 payment to an appraiser for the completion of an appraisal service within 30 days
20 after the date on which the appraisal management company receives the completed
21 appraisal service. An appraisal service is complete under this paragraph when the
22 scope of work has been completed and the work product has been delivered to the
23 client with any required certification or other signed document.

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1 (b) Include any fee for appraisal management services performed by the
2 licensed appraisal management company in the amount the company reports as
3 charges for the actual completion of an appraisal service by an appraiser.

4 (c) Prohibit an appraiser from showing in an appraisal report or other
5 document the fee that the licensed appraisal management company paid to the
6 appraiser for the appraisal service.

7 (d) Require an appraiser to state or affirm that any fees the licensed appraisal
8 management company paid to the appraiser were reasonable and customary.

9 **458.39 Record keeping. (1)** A licensed appraisal management company
10 shall maintain all of the following records for at least 5 years after the record is
11 generated or 2 years after final disposition of any court proceeding concerning an
12 appraisal service, whichever is later:

13 (a) A written record of each request for an appraisal service and appraisal
14 management services the licensed appraisal management company receives.

15 (b) A written record of the identity of each appraiser who performs an appraisal
16 service for the licensed appraisal management company.

17 (c) A written record of all substantive communications between a licensed
18 appraisal management company and an appraiser concerning an appraisal service
19 or an independent appraiser's inclusion on an appraiser panel of the appraisal
20 management company.

21 **(2)** The department may audit the records of a licensed appraisal management
22 company at any time to ensure compliance with this subchapter, rules promulgated
23 under this subchapter, or the Uniform Standards of Professional Appraisal Practice
24 described under s. 458.24.

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1 **458.41 Appraiser independence. (1)** A licensed appraisal management
2 company shall ensure that appraisals that are conducted for the company are
3 conducted independently and free from inappropriate influence or coercion
4 consistent with this section and 15 USC 1639e and rules promulgated under 15 USC
5 1639e.

6 **(2)** No licensed appraisal management company or employee, controlling
7 individual, or other agent of a licensed appraisal management company may
8 inappropriately influence or coerce, or attempt to inappropriately influence or
9 coerce, an appraiser conducting an appraisal service, contrary to this section or to 15
10 USC 1639e or rules promulgated under 15 USC 1639e, including by doing any of the
11 following:

12 (a) Withholding, or threatening to withhold, timely payment for an appraisal
13 service.

14 (b) Withholding, or threatening to withhold, future business from an
15 independent appraiser, or demoting or terminating, or threatening to demote or
16 terminate, an appraiser.

17 (c) Expressly or impliedly promising future business, promotions, or increased
18 compensation for an appraiser.

19 (d) Conditioning the assignment of an appraisal service or the payment of a fee
20 or other compensation for an appraisal service on the opinion, conclusion, or
21 valuation to be reached, or on a preliminary estimate or opinion requested from an
22 appraiser.

23 (e) Requesting an appraiser to provide an estimated, predetermined, or desired
24 valuation in an appraisal report, or to provide estimated values of comparable sales
25 prior to the appraiser's completion of an appraisal service.

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1 (f) Providing to an appraiser an anticipated, estimated, encouraged, or desired
2 value for a subject property or a proposed or target amount to be loaned to the
3 borrower, except that a licensed appraisal management company may provide to an
4 appraiser a copy of a sales contract for purchase.

5 (g) Providing financial or nonfinancial benefits to an appraiser or to any person
6 connected with the appraiser.

7 (h) Removing or threatening to remove an independent appraiser from an
8 appraiser panel.

9 (i) Obtaining, using, or paying for a 2nd or subsequent appraisal or ordering
10 an automated valuation model in connection with a mortgage financing transaction,
11 unless there is a reasonable basis to believe that the initial appraisal was flawed and
12 the basis is clearly noted in the loan file, or unless the appraisal or automated
13 valuation model is performed as a bona fide prefunding or postfunding appraisal
14 review or quality control process.

15 (j) Requiring that an appraiser indemnify or hold harmless the appraisal
16 management company for liability for any damages, losses, or claims arising out of
17 appraisal management services provided to a client by the appraisal management
18 company.

19 (k) Any other act or practice that impairs, or attempts to impair, an appraiser's
20 independence, objectivity, or impartiality.

21 **(3)** No licensed appraisal management company may do any of the following:

22 (a) Change an appraisal report or other results of an appraisal service
23 submitted by an appraiser to the licensed appraisal management company.

24 (b) Require an appraiser to change an appraisal report or other results of an
25 appraisal service.

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1 (c) Require an appraiser to complete an appraisal service if the appraiser, in
2 the appraiser's professional judgment, determines that he or she does not have
3 necessary expertise concerning the geographic area of the subject property, if the
4 appraiser notifies the licensed appraisal management company in writing of that
5 determination.

6 (d) Require an appraiser to prepare an appraisal report or complete an
7 appraisal service under a time frame that the appraiser, in the appraiser's
8 professional judgment, determines will not allow the appraiser to satisfy the
9 appraiser's relevant legal and professional obligations, if the appraiser notifies the
10 licensed appraisal management company in writing of that determination.

11 (e) Interfere in any way with an appraiser's ability to obtain information that
12 is relevant to an appraisal service.

13 (f) Require an appraiser to engage in any conduct that does not comply with the
14 Uniform Standards of Professional Appraisal Practice described under s. 458.24 or
15 with lawful conditions required by the client.

16 **(4)** This section does not prohibit a licensed appraisal management company
17 from asking an appraiser to consider additional appropriate property information,
18 including additional comparable sales, to make or support an appraisal; provide
19 further detail, substantiation, or explanation for the independent appraiser's value
20 conclusion; or correct errors in the appraisal report.

21 **(5)** This section does not prohibit the exchange of information or other
22 communication between an appraiser and any person if the exchange of information
23 or other communication does not inappropriately influence or coerce, or attempt to
24 inappropriately influence or coerce, the appraiser contrary to this section or to 15
25 USC 1639e or rules promulgated under 15 USC 1639e.

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1 **458.42 License number. (1)** The department shall assign a unique license
2 number to each licensed appraisal management company. The license number shall
3 appear on each certificate of licensure the department issues under s. 458.33 (2).

4 **(2)** The department shall publish a list of all current licensed appraisal
5 management companies and their license numbers.

6 **(3)** A licensed appraisal management company shall display its license number
7 on all print or electronic advertising or other visual communications.

8 **458.43 Department review of decisions concerning appraisers. (1)**
9 Except within the first 60 days after a licensed appraisal management company adds
10 an independent appraiser to the licensed appraisal management company's
11 appraiser panel, a licensed appraisal management company may not remove an
12 independent appraiser from its appraiser panel unless the licensed appraisal
13 management company does the following:

14 (a) If the independent appraiser is not being removed under par. (b), notifies
15 the independent appraiser in writing of the reasons the independent appraiser is
16 being removed from the appraiser panel.

17 (b) If the independent appraiser is being removed from the appraiser panel for
18 conduct alleged to be any of the following, notifies the independent appraiser of the
19 alleged conduct and provides the independent appraiser with an opportunity to
20 respond before removal:

21 1. A violation of this subchapter or rules promulgated under this subchapter,
22 other state or federal law, or the Uniform Standards of Professional Appraisal
23 Practice described under s. 458.24.

24 2. Other good cause.

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1 **(2)** (a) An independent appraiser who is removed from an appraiser panel
2 under sub. (1) (b) may petition the department for review of that removal decision.
3 The department's review of a removal decision under this paragraph is limited to
4 determining whether the licensed appraisal management company has complied
5 with sub. (1) and whether the independent appraiser engaged in conduct described
6 in sub. (1) (b) 1. or 2.

7 (b) If an independent appraiser petitions the department for review under par.
8 (a), the department shall complete its review within 180 days after the department
9 receives the petition.

10 (c) If, after opportunity for hearing, the department determines that a licensed
11 appraisal management company did not comply with sub. (1) or that an independent
12 appraiser did not engage in the conduct described in the notice under sub. (1) (b) 1.
13 or 2., the department shall order the licensed appraisal management company to
14 reinstate the independent appraiser on the appraiser panel. The licensed appraisal
15 management company may not refuse to assign appraisal services to the appraiser
16 or otherwise penalize or retaliate against the appraiser.

17 **458.44 Disciplinary proceedings and actions.** (1) The department shall,
18 upon motion of the board or upon its own motion, or upon a complaint filed with the
19 department or the board, conduct investigations concerning the conduct of a licensed
20 appraisal management company or an applicant for a license under s. 458.33.

21 **(2)** The department shall present the findings of any investigation under sub.
22 (1) to the board. The department shall, upon motion of the board or upon its own
23 motion, commence disciplinary proceedings on any matter under investigation
24 concerning a licensed appraisal management company or applicant for a license
25 under s. 458.33.

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1 **(3)** Disciplinary proceedings shall be conducted by the board according to the
2 rules promulgated under s. 440.03 (1). The department may deny a license, and the
3 board may conditionally or unconditionally limit, suspend, or revoke a license issued
4 under s. 458.33 (2) or reprimand a licensed appraisal management company if the
5 department or board determines that the applicant or licensed appraisal
6 management company, or a controlling individual of the applicant or licensed
7 appraisal management company, has done any of the following:

8 (a) Made a material misstatement in an application for a license or renewal of
9 a license under s. 458.33 or in any other information provided to the board or
10 department.

11 (b) Engaged in unprofessional or unethical conduct, as determined by the
12 department by rule.

13 (c) Engaged in conduct in the course of conducting business as an appraisal
14 management company that evidences a lack of knowledge or ability to apply
15 professional principles or skills.

16 (d) Had a license or other credential to act as an appraiser in any state denied,
17 refused, canceled, revoked, or surrendered in lieu of a revocation, unless that license
18 or other credential was later granted or reinstated.

19 (e) Advertised in a manner that is false, deceptive, or misleading.

20 (f) Advertised, practiced, or attempted to practice as an appraisal management
21 company under another person's name.

22 (g) Subject to ss. 111.321, 111.322, and 111.34, provided appraisal management
23 services while the individual's ability to practice was impaired by alcohol or other
24 drugs.

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1 (h) Provided appraisal services or appraisal management services where the
2 value of real estate provided in the appraisal report was based on the racial
3 composition of the area in which the real estate is located.

4 (i) Violated this subchapter or any rule promulgated under this subchapter.

5 (4) In addition to or in lieu of a reprimand or denial, limitation, suspension, or
6 revocation of a license under s. 458.33, the board may assess against a licensed
7 appraisal management company or an applicant for a license under s. 458.33 a
8 forfeiture of not less than \$100 nor more than \$10,000 for each violation enumerated
9 under sub. (3).

10 (5) The department may seek judicial review under ch. 227 of any final decision
11 of the board. The department shall be represented in any review proceedings by an
12 attorney within the department. Upon request of the board, the attorney general
13 may represent the board.

14 (6) The department shall report any violations of applicable appraisal-related
15 laws, regulations, or orders by an appraisal management company and disciplinary
16 and enforcement actions against an appraisal management company to the
17 appraisal subcommittee.

18 **458.45 Penalties.** Any person who violates this subchapter or any rule
19 promulgated under this subchapter may be fined not more than \$10,000.

20 **458.46 Rules.** The department shall promulgate rules to implement this
21 subchapter, including, to the extent the department, in consultation with the board,
22 deems necessary, rules establishing standards of professional conduct for licensed
23 appraisal management companies exempt from licensure under s. 458.34 (2).

24 **458.48 Nonapplicability.** Notwithstanding ss. 458.32 to 458.46, ss. 458.32
25 to 458.46 do not apply if federal law is amended or repealed so as to allow appraisal

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1 management companies that are not federally regulated appraisal management
2 companies to perform services related to a federally related transaction without
3 being required to register with and be subject to supervision by a state appraiser
4 certifying and licensing agency as required under 12 USC 3353.

SECTION 31. Nonstatutory provisions.

5
6 (1) Using the procedure under section 227.24 of the statutes, the department
7 of safety and professional services may promulgate rules required under section
8 458.46 of the statutes for the period before the effective date of the permanent rule
9 promulgated under section 458.46 of the statutes, but not to exceed the period
10 authorized under section 227.24 (1) (c) of the statutes, subject to extension under
11 section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and
12 (3) of the statutes, the department is not required to provide evidence that
13 promulgating a rule under this subsection as an emergency rule is necessary for the
14 preservation of the public peace, health, safety, or welfare and is not required to
15 provide a finding of emergency for a rule promulgated under this subsection.

16 **SECTION 32. Effective dates.** This act takes effect on July 1, 2018, except as
17 follows:

18 (1) SECTION 31 (1) takes effect on the day after publication.

19 (END)