

House Bill 192 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32nd, Washburn of the 141st, Ridley of the 6th, and Bonner of the 72nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real
2 estate appraisers, so as to change certain provisions relating to real estate management
3 companies; to revise and provide for definitions; to provide requirements for the
4 establishment and maintenance of a real estate appraisal management company; to authorize
5 the Georgia Real Estate Appraisers Board to establish certain rules and regulations for
6 appraisal management companies and to collect and remit certain fees; to authorize the board
7 to take disciplinary action against appraisal management companies; to revise certain
8 requirements relating to the board's authority to investigate certain violations; to correct a
9 cross-reference related to an appraisal by a registered forester; to provide for related matters;
10 to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real estate
14 appraisers, is amended by revising Code Section 43-39A-2, relating to definitions, as
15 follows:

16 "43-39A-2.

17 As used in this chapter, the term:

18 (1) 'Affiliate' means any company that controls, is controlled by, or is under common
19 control with another company.

20 ~~(1)~~(2) 'Analysis' means a study of real estate or real property other than one estimating
21 value.

22 ~~(2)~~(3) 'Appraisal' or 'real estate appraisal' means an analysis, opinion, or conclusion
23 prepared by an appraiser relating to the nature, quality, value, or utility of specified
24 interests in, or aspects of, identified real estate. An appraisal may be classified by subject
25 matter into either a valuation or an analysis.

26 ~~(3)(A)(4)(A)~~ 'Appraisal management company' means a person ~~who for compensation~~
 27 that:

28 (i) ~~Functions as a third-party intermediary between an appraiser and a user of real~~
 29 ~~estate appraisal services;~~ Provides appraisal management services to creditors or to
 30 secondary mortgage market participants, including affiliates;

31 (ii) ~~Administers a network of appraisers performing real estate appraisal services as~~
 32 ~~independent contractors;~~ Provides such services in connection with valuing a
 33 consumer's principal dwelling as security for a consumer credit transaction or
 34 incorporating such transactions into securitizations; or

35 (iii) ~~Enters into an agreement to provide real estate appraisal services with a user of~~
 36 ~~such services and one or more appraisers performing such services as independent~~
 37 ~~contractors; or~~ Within a 12 month period, oversees an appraiser panel of more than
 38 15 state certified or state licensed appraisers in one state or 25 or more state certified
 39 or state licensed appraisers in two or more states as described in Code Section
 40 43-39A-14.3.

41 ~~(iv) Otherwise serves as a third-party broker of appraisal services.~~

42 (B) 'Appraisal management company' ~~does not include~~ shall not mean:

43 (i) Any person licensed to practice law in this state who orders an appraisal in
 44 connection with a bona fide client relationship when that person directly contracts
 45 with an appraiser;

46 (ii) Any person ~~who~~ that contracts with an appraiser acting as an independent
 47 contractor for the completion of a real estate appraisal assignment and ~~who~~ that, upon
 48 the completion of such an assignment, cosigns the appraisal report with the appraiser
 49 who is acting as an independent contractor;

50 (iii) Any federal, state, or local government or any of its departments, agencies, or
 51 authorities that order appraisals;

52 (iv) Any person ~~who~~ that orders an appraisal on behalf of any federal, state, or local
 53 government or its departments, agencies, or authorities as an employee thereof; or

54 (v) A relocation company; or

55 (vi) A department or division of an entity that provides appraisal management
 56 services only to such entity.

57 ~~(4) 'Appraisal management services' means services performed by an appraisal~~
 58 ~~management company and may include, but are not limited to, such activities as~~
 59 ~~recruiting appraisers, contracting with appraisers to perform real estate appraisal activity,~~
 60 ~~negotiating fees for appraisals, receiving appraisal orders and appraisal reports, and~~
 61 ~~submitting appraisal reports received from appraisers to clients.~~

62 (5) 'Appraisal Management Company National Registry' means the registry of state
 63 registered appraisal management companies and federally regulated appraisal
 64 management companies maintained by the Appraisal Subcommittee.

65 (6) 'Appraisal management services' means one or more of the following:

66 (A) Recruiting, selecting, and retaining appraisers;

67 (B) Contracting with state certified or state licensed appraisers to perform appraisal
 68 assignments;

69 (C) Managing the process of having an appraisal performed, including providing
 70 administrative services such as receiving appraisal orders and appraisal reports,
 71 submitting completed appraisal reports to creditors and secondary mortgage market
 72 participants, collecting fees from creditors and secondary mortgage market participants
 73 for services provided, and paying appraisers for services performed; and

74 (D) Reviewing and verifying the work of appraisers.

75 ~~(5)~~(7) 'Appraisal report' means any communication, written or oral, of an appraisal. For
 76 purposes of this chapter, the testimony of an appraiser dealing with the appraiser's
 77 analyses, conclusions, or opinions concerning identified real property is deemed to be an
 78 oral appraisal report.

79 ~~(6)~~(8) 'Appraisal review' means the act or process of developing and communicating an
 80 opinion about the quality of another appraiser's work that was performed as part of an
 81 appraisal assignment, except that an examination of an appraisal for grammatical,
 82 typographical, or other similar errors shall not be an appraisal review.

83 ~~(7)~~(9) 'Appraisal Subcommittee' means the ~~designees of the heads of the federal financial~~
 84 ~~institutions regulatory agencies established by~~ Appraisal Subcommittee of the Federal
 85 Financial Institutions Examination Council established pursuant to 12 U.S.C. Section
 86 3310 Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended.

87 ~~(8)~~(10) 'Appraiser' means any ~~person~~ individual who, for a valuable consideration or
 88 with the intent or expectation of receiving the same from another, engages in real estate
 89 appraisal activity on any type of real estate or real property.

90 ~~(9)~~(11) 'Appraiser classification' means any category of appraiser which the board
 91 creates by designating criteria for qualification for such category and by designating the
 92 scope of practice permitted for such category, including the registration of real estate
 93 appraisal management companies.

94 ~~(10)~~(12) 'Appraiser panel' means a ~~group of independent appraisers selected to perform~~
 95 ~~an appraisal valuation or analysis for an appraisal management company~~ network, list,
 96 or roster of state certified or state licensed appraisers approved by an appraisal
 97 management company to perform appraisals as independent contractors for the appraisal
 98 management company.

99 ~~(11)~~(13) 'Board' means the Georgia Real Estate Appraisers Board established pursuant
100 to the provisions of this chapter.

101 ~~(12)~~ 'Certified appraisal' or 'certified appraisal report' means an appraisal or appraisal
102 report given, signed, and certified as such by a certified real estate appraiser. A certified
103 appraisal or appraisal report represents to the public that it meets the appraisal standards
104 defined in this chapter.

105 ~~(13)~~(14) 'Client' means any person ~~who~~ that enters into an agreement with an appraiser
106 or an appraisal management company for the performance of real estate appraisal
107 activity.

108 ~~(14)~~(15) 'Commission' means the Georgia Real Estate Commission created in Code
109 Section 43-40-2.

110 ~~(15)~~(16) 'Commissioner' means the real estate commissioner.

111 (17) 'Consumer credit' means credit offered or extended to a consumer primarily for
112 personal, family, or household purposes.

113 ~~(16)~~(18) 'Controlling person' means:

114 (A) An owner, officer, or director of a corporation, partnership, or other business entity
115 seeking to offer appraisal management services in this state;

116 (B) An individual employed, appointed, or authorized by an appraisal management
117 company who has the authority to enter into a contractual relationship with other
118 persons for the performance of appraisal management services and has the authority to
119 enter into agreements with appraisers for the performance of appraisals; or

120 (C) An individual who possesses, directly or indirectly, the power to direct or cause the
121 direction of the management or policies of an appraisal management company.

122 (19) 'Covered transaction' means any consumer credit transaction secured by the
123 consumer's principal dwelling.

124 (20) 'Creditor' means a person that regularly extends consumer credit that is subject to
125 a finance charge or is payable by written agreement in more than four installments (not
126 including a down payment) and to which the obligation is initially payable, either on the
127 face of the note or contract or by agreement when there is no note or contract.

128 (21) 'Dwelling' means a residential structure that contains one to four units, whether or
129 not such structure is attached to real property. Such term includes an individual
130 condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

131 ~~(17)~~ 'Evaluation assignment' means an engagement for which an appraiser is employed
132 or retained to give an analysis, opinion, or conclusion that relates to the nature, quality,
133 or utility of identified real estate or identified real property.

134 ~~(18)~~(22) 'Federally related transaction' means any real estate related financial transaction
135 which:

136 (A) A a federal financial institutions regulatory agency or the Resolution Trust
 137 Corporation engages in, contracts for, or regulates; and

138 (B) Requires requires the services of an appraiser.

139 (23) 'Federally regulated appraisal management companies' means appraisal management
 140 companies that are owned and controlled by a federal credit union as defined in 12 U.S.C.
 141 Section 1752 and insured by the National Credit Union Administration or by an insured
 142 depository institution as defined in 12 U.S.C. Section 1813 and regulated by the Office
 143 of the Comptroller of the Currency, the Board of Governors of the Federal Reserve
 144 System, or the Federal Deposit Insurance Corporation.

145 ~~(19)~~(24) 'Independent appraisal assignment' means an engagement for which an appraiser
 146 is employed or retained to act, or would be perceived by third parties or the public as
 147 acting, as a disinterested third party in rendering an unbiased analysis, opinion, or
 148 conclusion relating to the nature, quality, value, or utility of identified real estate or
 149 identified real property.

150 ~~(20)~~(25) 'Owner' means any person who owns 5 10 percent or more of an appraisal
 151 management company.

152 ~~(21)~~(26) 'Person' means ~~an individual, partnership, limited liability company, limited~~
 153 ~~partnership, corporation, association, or any other legal or commercial entity~~ a natural
 154 person or an organization, including a corporation, limited liability company, partnership,
 155 proprietorship, association, cooperative, estate, trust, or government unit.

156 ~~(22)~~(27) 'Real estate' means condominiums and leaseholds as well as any other interest
 157 or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether
 158 the real estate is situated in this state or elsewhere. Such term also includes any structure
 159 or structures equipped with the necessary service connections and made so as to be
 160 readily moveable as a unit or units when such a structure is affixed to land.

161 ~~(23)~~(28) 'Real estate appraisal activity' means the act or process of valuation of real
 162 estate or real property and preparing an appraisal report.

163 ~~(24)~~(29) 'Real estate related financial transaction' means any transaction involving:

164 (A) The sale, lease, purchase, or exchange of or investment in real estate or real
 165 property or the financing thereof;

166 (B) The refinancing of real estate or real property; and

167 (C) The use of real estate or real property as security for a loan or investment,
 168 including mortgage backed securities.

169 ~~(25)~~(30) 'Real property' means one or more defined interests, benefits, and rights inherent
 170 in the ownership of real estate.

171 ~~(25.1)~~(31) 'Relocation company' means a business entity that acts as an agent or
 172 contractor of an employer for the purposes of relocating the employees of such employer

173 and determining an anticipated sales price of the residences of the employees being
174 relocated.

175 (32) 'Regularly extends consumer credit' means:

176 (A) Extending credit (other than credit subject to the requirements of 12 C.F.R.
177 1026.32) more than five times for transactions secured by a dwelling in the preceding
178 calendar year;

179 (B) Extending credit (other than credit subject to the requirements of 12 C.F.R.
180 1026.32) more than five times for transactions secured by a dwelling in the current
181 calendar year if credit was not extended more than five times in the preceding calendar
182 year; or

183 (C) Originating in a 12 month period more than one credit extension that is subject to
184 the requirements of 12 C.F.R. 1026.32 or one or more such credit extensions through
185 a mortgage broker.

186 (33) 'Secondary mortgage market participant' means a guarantor or insurer of mortgage
187 backed securities or an underwriter or issuer of mortgage backed securities. Such term
188 only includes an individual investor in a mortgage backed security if such investor also
189 serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage
190 backed security.

191 ~~(26)~~(34) 'Specialized services' means services, other than independent appraisal
192 assignments which are performed by an appraiser. Specialized services may include
193 marketing, financing, and feasibility studies; valuations; analyses; and opinions and
194 conclusions given in connection with activities such as real estate brokerage, mortgage
195 banking, real estate counseling, and real estate tax counseling.

196 ~~(27)~~(35) 'State' means any state, ~~district, territory, possession, or province~~ of the United
197 States ~~or Canada, the District of Columbia, and any sovereign nation or any political~~
198 ~~subdivision of such sovereign nation~~ the territories of Guam, the Northern Mariana
199 Islands, Puerto Rico, and the United States Virgin Islands.

200 ~~(28)~~(36) 'Valuation' means an estimate of the value of real estate or real property.

201 ~~(29) 'Valuation assignment' means an engagement for which an appraiser is employed~~
202 ~~or retained to give an analysis, opinion, or conclusion that estimates the value of an~~
203 ~~identified parcel of real estate or identified real property at a particular point in time."~~

204 SECTION 2.

205 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section
206 43-39A-7, relating to applications for appraiser classifications, registration, and
207 confidentiality, as follows:

208 "(2) The registration required by paragraph (1) of this subsection shall, ~~at a minimum,~~
209 ~~include the following:~~

210 (A) Be subject to the ownership limitations set forth in subsection (a) of Code
211 Section 43-39A-14.1;

212 (B) Apply only to an appraisal management company that is not owned and controlled
213 by an insured depository institution and not regulated by a federal financial institutions
214 regulatory agency;

215 ~~(A)~~(C) Name Provide the name of the entity seeking registration;

216 ~~(B)~~(D) Business Provide the business address of the entity seeking registration which
217 must be located and maintained within this state;

218 ~~(C)~~(E) Telephone Provide the telephone contact information and the email address of
219 the entity seeking registration;

220 ~~(D)~~(F) If the entity is not a corporation that is domiciled in this state, provide the name
221 and contact information for the company's agent for service of process in this state;

222 ~~(E)~~(G) The Provide the name, address, and contact information for any individual or
223 any corporation, partnership, or other business entity that owns ~~5~~ 10 percent or more
224 of the appraisal management company;

225 ~~(F)~~(H) The Provide the name, address, and contact information for a designated
226 controlling person to be the primary communication source for the board;

227 ~~(G)~~(I) A Provide a certification that the entity has a system and process in place to
228 verify that a person being added to the appraiser panel of the appraisal management
229 company for appraisal services to be performed in Georgia holds a license or
230 certification in good standing in Georgia pursuant to this chapter. Additionally, the
231 board shall be authorized to verify that the appraisers on the appraisal management
232 company's appraiser panel hold a valid Georgia classification;

233 ~~(H)~~(J) A Provide a certification that the entity has a system in place to review the work
234 of all appraisers who are performing real estate appraisal services for the appraisal
235 management company on a periodic basis to validate that the real estate appraisal
236 services are being conducted in accordance with the standards for real estate appraisals
237 established by the board;

238 ~~(I)~~(K) A Provide a certification that the entity maintains a detailed record of each
239 service request that it receives for appraisal services within the State of Georgia and the
240 name, address, and telephone number of the appraiser who performs the requested real
241 estate appraisal services for the appraisal management company;

242 ~~(J)~~(L) An Require an irrevocable consent to service of process; and

243 ~~(K)~~(M) Any Require any such other information as the board shall ~~require~~ seek."

244 **SECTION 3.**

245 Said chapter is further amended by revising subsection (a) of Code Section 43-39A-8,
 246 relating to establishment of appraiser classifications complying with federal law, continuing
 247 education courses, and approval of instructors, as follows:

248 "(a) The board is authorized to establish through its rules and regulations such appraiser
 249 classifications and appraisal management company registrations as are necessary to comply
 250 with federal law in order to assure that Georgia has appropriate classifications of appraisers
 251 and registrations of appraisal management companies authorized to appraise in federally
 252 related transactions. The board shall also create a classification of appraiser to appraise in
 253 nonfederally related transactions and for which applicants need only to meet education
 254 standards established by the board through its rules and regulations."

255 **SECTION 4.**

256 Said chapter is further amended by revising subsection (l) of Code Section 43-39A-11,
 257 relating to fees, reactivation and reinstatement standards for appraiser classifications, and
 258 proof of financial responsibility of a real estate appraisal management company, as follows:

259 "(l) The board is authorized to collect and forward to the Federal Financial Institutions
 260 Examination Council the annual registry fee required for appraisers who perform or seek
 261 to perform appraisals in federally related transactions as set forth in 12 U.S.C. Section 3338
 262 and to submit to the Appraisal Subcommittee, no less than annually, a roster listing real
 263 estate appraisers who have appraiser classifications suitable for inclusion in the federal
 264 registry. In addition, the board is authorized to collect and forward to the Appraisal
 265 Subcommittee any annual appraisal management company registry fees as may be
 266 established by federal law."

267 **SECTION 5.**

268 Said chapter is further amended by revising Code Section 43-39A-13, relating to the power
 269 of board to regulate, discipline, and establish standards and power to enter contracts, as
 270 follows:

271 "The board, through its rules and regulations, shall have the full power to regulate the
 272 issuance of appraiser classifications and registrations, to discipline appraisers and appraisal
 273 management companies in any manner permitted by this chapter, to establish qualifications
 274 for appraiser classifications and registrations consistent with this chapter, to regulate
 275 approved courses, to establish standards for real estate appraisals, and to establish standards
 276 consistent with this chapter for appraisal management companies operating within the State
 277 of Georgia. Except for conducting an investigation as provided in this chapter, the board
 278 is authorized to enter into such contracts as are necessary to carry out its duties under this

279 chapter; provided, however, that the board may enter into contracts to assist it in the
 280 conduct of investigations authorized by this chapter only whenever it needs special legal
 281 or appraisal expertise or other extraordinary circumstances exist. Whenever the board
 282 contracts to perform such investigative functions, any such contractor working on an
 283 investigation authorized by this chapter shall be under the supervision of the board or a
 284 duly authorized representative of the board. Any contractor used by the board shall be
 285 knowledgeable in the work area for which such contractor is retained. A contractor shall
 286 not be empowered to determine the disposition of any investigation nor to make any
 287 discretionary decision that the board is authorized by law to make. Notwithstanding any
 288 other provision of law, the board is authorized to retain all funds received as collection fees
 289 for use in defraying the cost of collection of fees required under this chapter. Any such
 290 funds not expended for this purpose in the fiscal year in which they are generated shall be
 291 deposited in the state treasury; provided, however, that nothing in this Code section shall
 292 be construed so as to allow the board to retain any funds required by the Constitution to be
 293 paid into the state treasury; and provided, further, that the board shall comply with all
 294 provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code
 295 Section 45-12-92, prior to expending any such funds."

296

SECTION 6.

297 Said chapter is further amended by revising Code Section 43-39A-14.1, relating to the
 298 requirements for the establishment and maintenance of a real estate appraisal management
 299 company, as follows:

300 "43-39A-14.1.

301 (a) An appraisal management company subject to state registration pursuant to Code
 302 Section 43-39A-7 shall not be registered in this state or reported to the Appraisal
 303 Management Company National Registry if such appraisal management company, in whole
 304 or in part, directly or indirectly, is owned by any person who has had an appraiser license,
 305 certificate, or classification refused, denied, canceled, surrendered in lieu of a pending
 306 revocation, or revoked in any state for a substantive cause.

307 (b) An appraisal management company subject to state registration pursuant to Code
 308 Section 43-39A-7 shall not be barred by subsection (a) of this Code section from being
 309 registered in this state or reported to the Appraisal Management Company National
 310 Registry if the appraiser license of the appraiser with an ownership interest was not refused,
 311 denied, canceled, surrendered in lieu of a pending revocation, or revoked for a substantive
 312 cause and has been reinstated in this state or states in which the appraiser was licensed or
 313 certified.

314 (c) If after review of an original application or a renewal application the board determines
 315 that an applicant for an appraisal management company registration has not met the
 316 requirements for receiving such registration, the board shall be authorized to deny such
 317 application; otherwise, the board is authorized to grant such application.

318 (d) The board is authorized to register an applicant for an appraisal management company
 319 if such applicant complies with the requirements set forth in this chapter and the board
 320 determines that the issuance of such registration would be consistent with the public
 321 interest. In determining the public interest, the board shall be authorized to conduct a
 322 background investigation on each person that owns more than 10 percent of the appraisal
 323 management company and consider the following factors:

324 (1) Existence of good moral character with regard to reputation for honesty,
 325 trustworthiness, and integrity, as determined by the board;

326 (2) Compliance with applicable state and local laws;

327 (3) Any convictions, as such term is defined in Code Section 43-39A-14;

328 (4) False or fraudulent material in any application filed under this chapter; and

329 (5) Any other factors the board deems relevant to and consistent with the public interest.

330 ~~(a)~~(e) Each appraisal management company applying to the board for registration shall
 331 designate a controlling person ~~who~~ that shall be the main contact for all communication
 332 between the board and the appraisal management company and ~~who~~ that shall also serve
 333 as the person upon ~~whom~~ which service of process may be made in a proceeding against
 334 the appraisal management company.

335 ~~(b)~~(f) The controlling person designated pursuant to subsection ~~(a)~~ (e) of this Code section
 336 shall:

337 (1) Have never had a license or certificate to act as an appraiser refused, denied,
 338 canceled, surrendered in lieu of a pending revocation, or revoked in any state;

339 (2) Be of good moral character with regard to reputation for honesty, trustworthiness,
 340 and integrity, as determined by the board; and

341 (3) Submit to a background investigation, as determined by the board.

342 ~~(c)~~(g) Each appraisal management company shall certify to the commission on an annual
 343 basis that it:

344 (1) Includes instructions to appraisers in letters of engagement to decline the assignment
 345 in the event the appraiser is not geographically competent or the assignment falls outside
 346 the appraiser's scope of practice restrictions;

347 (2) Has a system in place to verify that the appraiser receiving the assignment holds a
 348 license or registration in good standing in the State of Georgia and has not had a license
 349 or certificate to act as an appraiser refused, denied, canceled, surrendered in lieu of a
 350 pending revocation, or revoked in any state;

351 (3) Has a system in place to perform an appraisal review on a periodic basis of the work
352 of all appraisers who are performing appraisals for the appraisal management company
353 to validate that the appraisals are being conducted in accordance with the standards for
354 real estate appraisals established by the board;

355 (4) Has reported to the board the results of any appraisal reviews in which an appraisal
356 is found to be substantially noncompliant with the standards for real estate appraisals
357 established by the board or any state or federal laws pertaining to appraisals; and

358 (5) Maintains records required to be kept by the board that the board is authorized to
359 inspect.

360 ~~(d)~~(h) An appraisal management company doing business in this state shall not:

361 (1) Knowingly employ any person directly involved in real estate appraisal or appraisal
362 management services who does not hold a license or registration in good standing in the
363 State of Georgia or who has had a license or certificate to act as an appraiser refused,
364 denied, canceled, surrendered in lieu of a pending revocation, or revoked in any state;

365 (2) Knowingly enter into any independent contractor arrangement, whether in oral,
366 written, or other form, with any person for the performance of real estate appraisal
367 services who does not hold a license or registration in good standing in the State of
368 Georgia or who has had a license or certificate to act as an appraiser refused, denied,
369 canceled, surrendered in lieu of a pending revocation, or revoked in any state;

370 (3) Knowingly enter into any contract, agreement, or other business relationship directly
371 involved with the performance of real estate appraisal or appraisal management services,
372 whether in oral, written, or any other form, with any entity that employs, has entered into
373 an independent contract arrangement, or has entered into any contract, agreement, or
374 other business relationship, whether in oral, written, or any other form, with any person
375 who does not hold a license or registration in good standing in the State of Georgia or
376 who has had a license or certificate to act as an appraiser refused, denied, canceled,
377 surrendered in lieu of a pending revocation, or revoked in any state;

378 (4) Request or require an appraiser to modify any aspect of an appraisal report unless the
379 modification provides additional information about the basis for a valuation, corrects
380 objective factual errors in the appraisal report, or provides additional information within
381 the appraisal regarding additional sales provided through an established dispute process;

382 (5) Require an appraiser to prepare an appraisal if the appraiser, in the appraiser's own
383 independent professional judgment, believes the appraiser does not have the necessary
384 expertise for the assignment or for the specific geographic area and has notified the
385 appraisal management company and declined the assignment;

386 (6) Require an appraiser to prepare an appraisal under a time frame that the appraiser,
387 in the appraiser's own professional judgment, believes does not afford the appraiser the

388 ability to meet all the relevant legal and professional obligations, and the appraiser has
 389 notified the appraisal management company and declined the assignment;

390 (7) Prohibit or inhibit legal or other allowable communication between the appraiser and
 391 a lender, a real estate licensee, or any other person who the appraiser, in the appraiser's
 392 own professional judgment, believes possesses information that would be relevant;

393 (8) Knowingly require an appraiser to take any action that does not comply with any
 394 provision of this chapter and the rules and regulations promulgated by the board or any
 395 assignment conditions and certifications required by the client for whom an appraisal is
 396 being performed;

397 (9) Make any portion of its fee or the appraiser's fee contingent on a predetermined or
 398 favorable outcome including, but not limited to, a loan closing or a specific dollar amount
 399 being determined by the appraiser in the appraisal;

400 (10) Prohibit any appraiser who is part of an appraiser panel from recording the fee that
 401 the appraiser was paid by the appraisal management company for the performance of the
 402 appraisal within the appraisal report that is submitted by the appraiser to the appraisal
 403 management company;

404 (11) Alter, modify, or otherwise change a completed appraisal report submitted by an
 405 appraiser by:

406 (A) Permanently removing the appraiser's signature or seal; or
 407 (B) Adding information to or removing information from the appraisal report with an
 408 intent to change the valuation conclusion; or

409 (12) Require an appraiser to provide the appraisal management company with the
 410 appraiser's digital signature or seal; provided, however, that an appraiser shall not be
 411 prohibited from voluntarily providing such appraiser's digital signature or seal to another
 412 person.

413 ~~(e)~~(i) An appraisal management company shall not pay any fees to an appraiser performing
 414 or attempting to perform any real estate appraisal activity in a ~~federally related~~ covered
 415 transaction without complying with the rules and regulations adopted by the board to
 416 regulate such transactions in accordance with 15 U.S.C. Section 1601, et seq., and the
 417 regulations promulgated thereunder ~~and the standards required by the federal financial~~
 418 ~~institutions regulatory agency that regulates the financial transaction for which the~~
 419 ~~appraisal assignment is undertaken~~, including, but not limited to, compensation to
 420 appraisers that is customary and reasonable for appraisals being performed for one- to
 421 four-family residential units in the market area of the property being appraised. An
 422 appraisal management company shall separately state to the client the fees paid to an
 423 appraiser for appraisal services and the fees charged by the appraisal management company

424 for services associated with the management of the appraisal process, including
425 procurement of the appraiser's services.

426 ~~(f)~~(j) An appraisal management company shall be held responsible for the actions of its
427 controlling person affiliated with such appraisal management company should such
428 controlling person violate any of the provisions of this chapter or any rules and regulations
429 promulgated by the board or engage in any unfair trade practices.

430 ~~(g)~~(k) Whenever the board initiates an investigation as provided for in Code Section
431 43-39A-22 and the evidence gathered in the investigation reveals an apparent violation by
432 the appraisal management company of this chapter, of the rules and regulations
433 promulgated by the board, or of any unfair trade practices, including, but not limited to,
434 those listed in this Code section, the board shall file notice of hearing in accordance with
435 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Whenever an appraisal
436 management company has been found guilty of a violation of any provision of this chapter
437 or the rules and regulations promulgated by the board, or of any unfair trade practices after
438 such hearing has taken place, the board shall have the power to take any one or more of the
439 following actions:

- 440 (1) Refuse to grant or renew registration to an appraisal management company;
- 441 (2) Suspend or revoke the registration of an appraisal management company;
- 442 (3) Impose a fine not to exceed \$1,000.00 for each violation of this chapter, of the rules
443 and regulations promulgated by the board, or of any unfair trade practices with fines for
444 multiple violations limited to \$5,000.00 in any one disciplinary proceeding or such other
445 amount as parties agree; or
- 446 (4) Take other appropriate disciplinary action as established by the rules and regulations
447 of the board.

448 (l) The board is authorized to submit to the Appraisal Subcommittee information
449 consistent with Appraisal Subcommittee regulations concerning appraisal management
450 companies that operate in this state, including disciplinary actions, enforcement actions,
451 or other relevant information pertaining to an appraisal management company holding a
452 registration issued by the board.

453 (m) The board is authorized to establish rules and regulations requiring an appraisal
454 management company to conduct its appraisal management services in accordance with
455 federal regulations, including the federal Truth in Lending Act."

456 **SECTION 7.**

457 Said chapter is further amended by adding new Code sections to read as follows:

458 "43-39A-14.2.

459 An appraisal panel may include appraisers who are engaged by or accepted by the appraisal
 460 management company for consideration for future appraisal assignments in covered
 461 transactions or for secondary mortgage market participants in connection with covered
 462 transactions.

463 43-39A-14.3.

464 (a) An appraiser shall be deemed part of an appraisal management company's appraiser
 465 panel as of the earliest date on which the appraisal management company:

466 (1) Affirms acceptance of the appraiser for the appraisal management company's
 467 consideration for future appraisal assignments in covered transactions or for secondary
 468 mortgage market participants in connection with covered transactions; or

469 (2) Engages the appraiser to perform one or more appraisals on behalf of a creditor for
 470 a covered transaction or secondary mortgage market participant in connection with
 471 covered transactions.

472 (b) An appraiser who is deemed part of the appraisal management company's appraiser
 473 panel pursuant to subsection (a) of this Code section shall remain on the panel until the date
 474 on which the appraisal management company:

475 (1) Sends written notice to the appraiser removing such appraiser from the appraiser
 476 panel, with an explanation of its action; or

477 (2) Receives written notice from the appraiser requesting to be removed from the
 478 appraiser panel or notice of the death or incapacity of the appraiser.

479 (c) If an appraiser is removed from an appraisal management company's appraiser panel
 480 pursuant to subsection (b) of this Code section, but the appraisal management company
 481 subsequently accepts the appraiser for consideration for future assignments or engages the
 482 appraiser at any time during the 12 months after the removal of such appraiser, such
 483 removal shall be deemed not to have occurred and the appraiser shall be deemed to have
 484 been part of the appraisal management company's appraiser panel without interruption.

485 (d) The period for considering appraisers on an appraisal management company's appraiser
 486 panel shall be the 12 month period from the date of initial registration or each successive
 487 12 month period thereafter."

488

SECTION 8.

489 Said chapter is further amended by revising subsection (a) of Code Section 43-39A-22,
 490 relating to investigations, subpoenas, confidentiality, access to records, publication of names
 491 of disciplined appraisers and schools, and closed meetings, as follows:

492 "(a) The board may, upon its own motion, and shall, upon the sworn written request of any
 493 person, investigate the actions of any appraiser, applicant, appraisal management company,
 494 or school approved by the board; ~~provided, however, that, whenever a request for~~
 495 ~~investigation involves an appraisal report which varies from a sales, lease, or exchange~~
 496 ~~price by 20 percent or less, or, if the appraiser or appraisal management company is acting~~
 497 ~~as a tax consultant, which varies from the tax assessor's value by 20 percent or less, the~~
 498 ~~board may in its discretion decline to conduct an investigation.~~ Except for investigations
 499 of applicants for appraiser classifications, investigations of allegations of fraudulent
 500 conduct, or investigations of possible violations of this chapter which have been litigated
 501 in the courts or arise from litigation in the courts, the board shall not initiate an
 502 investigation on its own motion or upon a sworn written request for investigation unless
 503 the act or acts which may constitute a violation of this chapter occurred within five years
 504 of the initiation of the investigation."

505 **SECTION 9.**

506 Said chapter is further amended by revising paragraph (b)(3) of Code Section 43-39A-24,
 507 relating to unlawfulness of operating without appraiser classification and exceptions, as
 508 follows:

509 "(3) A registered forester registered pursuant to the provisions of ~~Code Section 12-6-40~~
 510 Part 2 of Article 1 of Chapter 6 of Title 12, who appraises or evaluates standing or
 511 growing timber located in this state and issues a ~~'certified'~~ an appraisal or valuation on
 512 such timber as permitted by ~~Code Section 12-6-40~~ under such registration, except that,
 513 when an appraisal or valuation of standing or growing timber is to be used in a federally
 514 related loan transaction, such registered forester must obtain the proper appraiser
 515 classification under this chapter, if required by federal law and the Appraisal
 516 Subcommittee;"

517 **SECTION 10.**

518 All laws and parts of laws in conflict with this Act are repealed.