

House Bill 775 (COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 32nd and Maxwell of the 17th

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 provide for
9 related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

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

15 "43-39A-2.

16 As used in this chapter, the term:

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

19 ~~(1)~~(2) 'Analysis' means a study of real estate or real property other than one estimating
20 value.

21 ~~(2)~~(3) 'Appraisal' or 'real estate appraisal' means an analysis, opinion, or conclusion
22 prepared by an appraiser relating to the nature, quality, value, or utility of specified
23 interests in, or aspects of, identified real estate. An appraisal may be classified by subject
24 matter into either a valuation or an analysis.

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

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

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

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

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

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

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

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

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

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

53 (v) A relocation company; or

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

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

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

64 (6) 'Appraisal management services' means:

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

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

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

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

74 ~~(5)~~(7) 'Appraisal report' means any communication, written or oral, of an appraisal. For
75 purposes of this chapter, the testimony of an appraiser dealing with the appraiser's
76 analyses, conclusions, or opinions concerning identified real property is deemed to be an
77 oral appraisal report.

78 ~~(6)~~(8) 'Appraisal review' means the act or process of developing and communicating an
79 opinion about the quality of another appraiser's work that was performed as part of an
80 appraisal assignment, except that an examination of an appraisal for grammatical,
81 typographical, or other similar errors shall not be an appraisal review.

82 ~~(7)~~(9) 'Appraisal Subcommittee' means the ~~designees of the heads of the federal financial~~
83 ~~institutions regulatory agencies established by~~ Appraisal Subcommittee of the Federal
84 Financial Institutions Examination Council established pursuant to 12 U.S.C. Section
85 3310 Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended.

86 ~~(8)~~(10) 'Appraiser' means any ~~person~~ individual who, for a valuable consideration or
87 with the intent or expectation of receiving the same from another, engages in real estate
88 appraisal activity on any type of real estate or real property.

89 ~~(9)~~(11) 'Appraiser classification' means any category of appraiser which the board
90 creates by designating criteria for qualification for such category and by designating the
91 scope of practice permitted for such category, including the registration of real estate
92 appraisal management companies.

93 ~~(10)~~(12) 'Appraiser panel' means a ~~group of independent appraisers selected to perform~~
94 ~~an appraisal valuation or analysis for an appraisal management company~~ network, list,
95 or roster of licensed or certified appraisers approved by an appraisal management
96 company to perform appraisals as independent contractors for the appraisal management
97 company.

98 ~~(11)~~(13) 'Board' means the Georgia Real Estate Appraisers Board established pursuant
99 to the provisions of this chapter.

100 ~~(12)~~(14) 'Certified appraisal' or ~~'certified appraisal'~~ 'appraisal report' means an appraisal
 101 or appraisal report given, signed, and certified as such by a certified real estate appraiser.
 102 A certified appraisal or appraisal report represents to the public that it meets the appraisal
 103 standards defined in this chapter.

104 ~~(13)~~(15) 'Client' means any person ~~who~~ that enters into an agreement with an appraiser
 105 or an appraisal management company for the performance of real estate appraisal
 106 activity.

107 ~~(14)~~(16) 'Commission' means the Georgia Real Estate Commission created in Code
 108 Section 43-40-2.

109 ~~(15)~~(17) 'Commissioner' means the real estate commissioner.

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

112 ~~(16)~~(19) 'Controlling person' means:

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

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

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

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

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

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

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

133 ~~(18)~~(23) 'Federally related transaction' means any real estate related financial transaction
 134 which (A) a federal financial institutions regulatory agency or the Resolution Trust
 135 Corporation engages in, contracts for, or regulates; and (B) requires the services of an
 136 appraiser.

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

143 ~~(19)~~(25) 'Independent appraisal assignment' means an engagement for which an appraiser
 144 is employed or retained to act, or would be perceived by third parties or the public as
 145 acting, as a disinterested third party in rendering an unbiased analysis, opinion, or
 146 conclusion relating to the nature, quality, value, or utility of identified real estate or
 147 identified real property.

148 ~~(20)~~(26) 'Owner' means any person who owns 5 10 percent or more of an appraisal
 149 management company.

150 ~~(21)~~(27) 'Person' means ~~an individual, partnership, limited liability company, limited~~
 151 ~~partnership, corporation, association, or any other legal or commercial entity~~ a natural
 152 person or an organization, including a corporation, limited liability company, partnership,
 153 proprietorship, association, cooperative, estate, trust, or government unit.

154 ~~(22)~~(28) 'Real estate' means condominiums and leaseholds as well as any other interest
 155 or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether
 156 the real estate is situated in this state or elsewhere. Such term also includes any structure
 157 or structures equipped with the necessary service connections and made so as to be
 158 readily moveable as a unit or units when such a structure is affixed to land.

159 ~~(23)~~(29) 'Real estate appraisal activity' means the act or process of valuation of real
 160 estate or real property and preparing an appraisal report.

161 ~~(24)~~(30) 'Real estate related financial transaction' means any transaction involving:

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

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

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

167 ~~(25)~~(31) 'Real property' means one or more defined interests, benefits, and rights inherent
 168 in the ownership of real estate.

169 ~~(25.1)~~(32) 'Relocation company' means a business entity that acts as an agent or
 170 contractor of an employer for the purposes of relocating the employees of such employer
 171 and determining an anticipated sales price of the residences of the employees being
 172 relocated.

173 (33) 'Regularly extends consumer credit' means:

174 (A) Extending credit (other than credit subject to the requirements of 12 C.F.R.
 175 1026.32) more than five times for transactions secured by a dwelling in the preceding
 176 calendar year;

177 (B) Extending credit (other than credit subject to the requirements of 12 C.F.R.
 178 1026.32) more than five times for transactions secured by a dwelling in the current
 179 calendar year if credit was not extended more than five times in the preceding calendar
 180 year; or

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

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

189 ~~(26)~~(35) 'Specialized services' means services, other than independent appraisal
 190 assignments which are performed by an appraiser. Specialized services may include
 191 marketing, financing, and feasibility studies; valuations; analyses; and opinions and
 192 conclusions given in connection with activities such as real estate brokerage, mortgage
 193 banking, real estate counseling, and real estate tax counseling.

194 ~~(27)~~(36) 'State' means any state, ~~district, territory, possession, or province~~ of the United
 195 States ~~or Canada, the District of Columbia, and any sovereign nation or any political~~
 196 ~~subdivision of such sovereign nation~~ the territories of Guam, the Northern Mariana
 197 Islands, Puerto Rico, and the United States Virgin Islands.

198 ~~(28)~~(37) 'Valuation' means an estimate of the value of real estate or real property.

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

202 SECTION 2.

203 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section
 204 43-39A-7, relating to applications for appraiser classifications, registration, and
 205 confidentiality, as follows:

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

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

210 (B) Apply only to an appraisal management company that is not owned and controlled
 211 by an insured depository institution and not regulated by a federal financial institutions
 212 regulatory agency;
 213 ~~(A)(C)~~ Name Provide the name of the entity seeking registration;
 214 ~~(B)(D)~~ Business Provide the business address of the entity seeking registration which
 215 must be located and maintained within this state;
 216 ~~(C)(E)~~ Telephone Provide the telephone contact information and the e-mail address of
 217 the entity seeking registration;
 218 ~~(D)(F)~~ If the entity is not a corporation that is domiciled in this state, provide the name
 219 and contact information for the company's agent for service of process in this state;
 220 ~~(E)(G)~~ The Provide the name, address, and contact information for any individual or
 221 any corporation, partnership, or other business entity that owns 5 10 percent or more
 222 of the appraisal management company;
 223 ~~(F)(H)~~ The Provide the name, address, and contact information for a designated
 224 controlling person to be the primary communication source for the board;
 225 ~~(G)(I)~~ A Provide a certification that the entity has a system and process in place to
 226 verify that a person being added to the appraiser panel of the appraisal management
 227 company for appraisal services to be performed in Georgia holds a license or
 228 certification in good standing in Georgia pursuant to this chapter. Additionally, the
 229 board shall be authorized to verify that the appraisers on the appraisal management
 230 company's appraiser panel hold a valid Georgia classification;
 231 ~~(H)(J)~~ A Provide a certification that the entity has a system in place to review the work
 232 of all appraisers who are performing real estate appraisal services for the appraisal
 233 management company on a periodic basis to validate that the real estate appraisal
 234 services are being conducted in accordance with the standards for real estate appraisals
 235 established by the board;
 236 ~~(I)(K)~~ A Provide a certification that the entity maintains a detailed record of each
 237 service request that it receives for appraisal services within the State of Georgia and the
 238 name, address, and telephone number of the appraiser who performs the requested real
 239 estate appraisal services for the appraisal management company;
 240 ~~(J)(L)~~ An Require an irrevocable consent to service of process; and
 241 ~~(K)(M)~~ Any Require any such other information as the board shall require seek."

242 SECTION 3.

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

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

253 **SECTION 4.**

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

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

265 **SECTION 5.**

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

269 "The board, through its rules and regulations, shall have the full power to regulate the
 270 issuance of appraiser classifications and registrations, to discipline appraisers and appraisal
 271 management companies in any manner permitted by this chapter, to establish qualifications
 272 for appraiser classifications and registrations consistent with this chapter, to regulate
 273 approved courses, to establish standards for real estate appraisals, and to establish standards
 274 consistent with this chapter for appraisal management companies operating within the State
 275 of Georgia. Except for conducting an investigation as provided in this chapter, the board
 276 is authorized to enter into such contracts as are necessary to carry out its duties under this
 277 chapter; provided, however, that the board may enter into contracts to assist it in the
 278 conduct of investigations authorized by this chapter only whenever it needs special legal
 279 or appraisal expertise or other extraordinary circumstances exist. Whenever the board
 280 contracts to perform such investigative functions, any such contractor working on an

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

294 **SECTION 6.**

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

298 "43-39A-14.1.

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

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

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

315 (d) The board is authorized to register an applicant for an appraisal management company
 316 if it complies with the requirements set forth in this chapter and the board determines that

317 the issuance of such registration would be consistent with the public interest. In
 318 determining the public interest, the board shall be authorized to conduct a background
 319 investigation on each person that owns more than 10 percent of the appraisal management
 320 company and consider the following factors:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

383 (6) Require an appraiser to prepare an appraisal under a time frame that the appraiser,
 384 in the appraiser's own professional judgment, believes does not afford the appraiser the
 385 ability to meet all the relevant legal and professional obligations, and the appraiser has
 386 notified the appraisal management company and declined the assignment;

- 387 (7) Prohibit or inhibit legal or other allowable communication between the appraiser and
 388 a lender, a real estate licensee, or any other person who the appraiser, in the appraiser's
 389 own professional judgment, believes possesses information that would be relevant;
- 390 (8) Knowingly require an appraiser to take any action that does not comply with any
 391 provision of this chapter and the rules and regulations promulgated by the board or any
 392 assignment conditions and certifications required by the client for whom an appraisal is
 393 being performed;
- 394 (9) Make any portion of its fee or the appraiser's fee contingent on a predetermined or
 395 favorable outcome including, but not limited to, a loan closing or a specific dollar amount
 396 being determined by the appraiser in the appraisal;
- 397 (10) Prohibit any appraiser who is part of an appraiser panel from recording the fee that
 398 the appraiser was paid by the appraisal management company for the performance of the
 399 appraisal within the appraisal report that is submitted by the appraiser to the appraisal
 400 management company;
- 401 (11) Alter, modify, or otherwise change a completed appraisal report submitted by an
 402 appraiser by:
- 403 (A) Permanently removing the appraiser's signature or seal; or
 404 (B) Adding information to or removing information from the appraisal report with an
 405 intent to change the valuation conclusion; or
- 406 (12) Require an appraiser to provide the appraisal management company with the
 407 appraiser's digital signature or seal; provided, however, that an appraiser shall not be
 408 prohibited from voluntarily providing such appraiser's digital signature or seal to another
 409 person.
- 410 ~~(e)~~(i) An appraisal management company shall not pay any fees to an appraiser performing
 411 or attempting to perform any real estate appraisal activity in a ~~federally related~~ covered
 412 transaction without complying with the rules and regulations adopted by the board to
 413 regulate such transactions in accordance with 15 U.S.C. Section 1601, et seq., and the
 414 regulations promulgated thereunder ~~and the standards required by the federal financial~~
 415 ~~institutions regulatory agency that regulates the financial transaction for which the~~
 416 ~~appraisal assignment is undertaken~~, including, but not limited to, compensation to
 417 appraisers that is customary and reasonable for appraisals being performed for one-to
 418 four-family residential units in the market area of the property being appraised. An
 419 appraisal management company shall separately state to the client the fees paid to an
 420 appraiser for appraisal services and the fees charged by the appraisal management company
 421 for services associated with the management of the appraisal process, including
 422 procurement of the appraiser's services.

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

427 ~~(g)~~(k) Whenever the board initiates an investigation as provided for in Code Section
 428 43-39A-22 and the evidence gathered in the investigation reveals an apparent violation by
 429 the appraisal management company of this chapter, of the rules and regulations
 430 promulgated by the board, or of any unfair trade practices, including, but not limited to,
 431 those listed in this Code section, the board shall file notice of hearing in accordance with
 432 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Whenever an appraisal
 433 management company has been found guilty of a violation of any provision of this chapter
 434 or the rules and regulations promulgated by the board, or of any unfair trade practices after
 435 such hearing has taken place, the board shall have the power to take any one or more of the
 436 following actions:

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

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

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

453 SECTION 7.

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

455 "43-39A-14.2.

456 An appraisal panel may include appraisers that are engaged by or accepted by the appraisal
 457 management company for consideration for future appraisal assignments in covered

458 transactions or for secondary mortgage market participants in connection with covered
 459 transactions.

460 43-39A-14.3.

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

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

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

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

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

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

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

482 (d) The period for considering appraisers on an appraisal management company's appraiser
 483 panel shall be the 12 month period from the date of initial registration or each successive
 484 12 month period thereafter."

485 **SECTION 8.**

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

489 "(a) The board may, upon its own motion, and shall, upon the sworn written request of any
 490 person, investigate the actions of any appraiser, applicant, appraisal management company,
 491 or school approved by the board; ~~provided, however, that, whenever a request for~~
 492 ~~investigation involves an appraisal report which varies from a sales, lease, or exchange~~

493 ~~price by 20 percent or less, or, if the appraiser or appraisal management company is acting~~
494 ~~as a tax consultant, which varies from the tax assessor's value by 20 percent or less, the~~
495 ~~board may in its discretion decline to conduct an investigation.~~ Except for investigations
496 of applicants for appraiser classifications, investigations of allegations of fraudulent
497 conduct, or investigations of possible violations of this chapter which have been litigated
498 in the courts or arise from litigation in the courts, the board shall not initiate an
499 investigation on its own motion or upon a sworn written request for investigation unless
500 the act or acts which may constitute a violation of this chapter occurred within five years
501 of the initiation of the investigation."

502 **SECTION 9.**

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