

LEGISLATIVE BILL 139

Approved by the Governor March 11, 2025

Introduced by Dungan, 26; Hallstrom, 1.

A BILL FOR AN ACT relating to real property; to amend sections 76-2239, 76-3207, and 76-3216, Revised Statutes Cumulative Supplement, 2024; to change provisions relating to disciplinary actions against credential holders under the Real Property Appraiser Act and restrictions on ownership of appraisal management companies and violations by appraisal management companies under the Nebraska Appraisal Management Company Registration Act; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 76-2239, Revised Statutes Cumulative Supplement, 2024, is amended to read:

76-2239 (1)(a) ~~(1)~~ The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the Real Property Appraiser Act. Upon receipt of information indicating a violation of the Real Property Appraiser Act, the board shall make an investigation of the facts to determine if there is evidence of a violation. If technical assistance is required for investigation, the board may contract with or use any qualified person for such technical assistance.

(b) The board may revoke or suspend the credential or otherwise discipline a credential holder, revoke or suspend a qualifying or continuing education course or activity, deny any application, ~~or~~ issue a cease and desist order, or enter into a contingent dismissal agreement with remedial measures with a credential holder for any violation of the Real Property Appraiser Act.

(c) Any disciplinary action taken against a credentialed real property appraiser, including any action that limits a credentialed real property appraiser's ability to engage in real property appraisal practice, shall be reported to federal authorities as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. A successfully completed contingent dismissal agreement is not disciplinary action. Upon receipt of information indicating that a person may have violated any provision of the Real Property Appraiser Act, the board shall make an investigation of the facts to determine whether or not there is evidence of a violation. If technical assistance is required, the board may contract with or use qualified persons.

(2)(a) If an investigation indicates that a person may have violated a provision of the Real Property Appraiser Act ~~act~~, the board may offer the person an opportunity to voluntarily and informally discuss the alleged violation before the board. The board may enter into consent agreements, ~~or negotiate settlements, or enter into contingent dismissal agreements.~~

(b) If an investigation indicates that a person not holding a credential under the act has violated a provision of the act, the board may issue a cease and desist order or refer the investigation to the appropriate county attorney for the consideration of formal charges.

(c) If an investigation indicates that a credential holder has violated a provision of the act, a formal complaint shall be prepared by the board and served upon the credential holder. The complaint shall require the credential holder to file an answer within thirty days of the date of service. In responding to a complaint, the credential holder may admit the allegations of the complaint, deny the allegations of the complaint, or plead otherwise. Failure to make a timely response shall be deemed an admission of the allegations of the complaint. Upon receipt of an answer to the complaint, the director or chairperson of the board shall set a date, time, and place for an administrative hearing on the complaint. The date of the hearing shall not be less than thirty nor more than one hundred twenty days from the date that the answer is filed unless such date is extended for good cause.

Sec. 2. Section 76-3207, Revised Statutes Cumulative Supplement, 2024, is amended to read:

76-3207 (1) An appraisal management company ~~A person applying for issuance of a registration or renewal of a registration shall not:~~

(a) In whole or in part, directly or indirectly, be owned by any person who has had a real property appraiser credential or equivalent refused, denied, canceled, or revoked or who has surrendered a real property appraiser credential or equivalent in lieu of revocation in any jurisdiction for a substantive cause as determined by the board; and

(b) Be more than ten percent owned by a person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the real property appraisal practice or any crime involving fraud, misrepresentation, or moral turpitude or failed to submit to a criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation.

(2) For purposes of subdivision (1)(b) of this section, each individual

owner of more than ten percent of an appraisal management company shall:

(a) At the time an application for issuance of a registration is made, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation;

(b) At the time an application for renewal of a registration is made, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation if a fingerprint-based national criminal history records check has not been completed pursuant to subdivision (2)(a) of this section; and

(c) At the time an individual owner of more than ten percent of an appraisal management company is identified by the board, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation if a fingerprint-based national criminal history records check has not been completed pursuant to subdivision (2)(a) or (2)(b) of this section.

(3) The board shall pay the Nebraska State Patrol the costs associated with conducting a fingerprint-based national criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the board.

(4) For the purpose of subdivision (1)(a) of this section, a person is not barred from issuance of a registration if the real property appraiser credential or equivalent of the person with an ownership interest was not refused, denied, canceled, revoked, or surrendered in lieu of revocation for a substantive cause as determined by the board and has been reinstated by the jurisdiction in which the action was taken.

Sec. 3. Section 76-3216, Revised Statutes Cumulative Supplement, 2024, is amended to read:

76-3216 (1) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration or by meeting the requirements as a federally regulated appraisal management company.

(2) Except as provided in section 76-3204, any person who, directly or indirectly for another, offers, attempts, or agrees to perform all actions described in subdivision (6) of section 76-3202 or any action described in subdivision (7) of such section, shall be deemed an appraisal management company within the meaning of the Nebraska Appraisal Management Company Registration Act, and such action shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the act.

(3) The board may issue a cease and desist order against any person who violates this section by performing any action described in subdivision (6) or (7) of section 76-3202 without the appropriate registration. Such order shall be final ten days after issuance unless such person requests a hearing pursuant to section 76-3217. The board may, through the Attorney General, obtain an order from the district court for the enforcement of the cease and desist order.

(4) To the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke its registration, ~~or~~ levy fines or impose civil penalties not to exceed five thousand dollars for a first offense and not to exceed ten thousand dollars for a second or subsequent offense, or enter into a contingent dismissal agreement with remedial measures with an appraisal management company, if the board determines that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following:

(a) A material violation of the act;

(b) A violation of any rule or regulation adopted and promulgated by the board; or

(c) Procurement of a registration for itself or any other person by fraud, misrepresentation, or deceit.

(5) In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board shall endeavor to impose fines or civil penalties that are reasonable in light of the nature, extent, and severity of the violation. The board shall also take action against an appraisal management company's registration only after less severe sanctions have proven insufficient to ensure behavior consistent with the Nebraska Appraisal Management Company Registration Act. When deciding whether to impose a sanction permitted by subsection (4) of this section, determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of the act, the board shall consider whether an appraisal management company:

(a) Has an effective program reasonably designed to ensure compliance with the act;

(b) Has taken prompt and appropriate steps to correct and prevent the

recurrence of any detected violations; and

(c) Has independently reported to the board any significant violations or potential violations of the act prior to an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of the occurrence of such violations.

(6) Any violation of appraisal-related laws or rules and regulations, and disciplinary action taken against an appraisal management company, shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC rule, and any policy or rule established by the Appraisal Subcommittee. A successfully completed contingent dismissal agreement is not disciplinary action.

Sec. 4. Original sections 76-2239, 76-3207, and 76-3216, Revised Statutes Cumulative Supplement, 2024, are repealed.