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SESSION 2009

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SENATE BILL 829*
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Short Title: Regulation of Appraisal Management Companies.

(Public)

Sponsors:

Referred to:

March 25, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 93E of the General Statutes is amended by adding a new
5 Article to read:

6 "Article 2.

7 "Real Estate Appraisal Management Companies.

8 **"§ 93E-2-1. Registration required of real estate appraisal management companies;
9 exceptions.**

10 Beginning January 1, 2011, it shall be unlawful for any person, corporation, partnership,
11 sole proprietorship, subsidiary, unit, or any other business entity in this State to do any of the
12 following without first registering with the Board under the provisions of this Article:

- 13 (1) Directly or indirectly engage or attempt to engage in business as an appraisal
14 management company.
15 (2) Advertise or make a representation that the person or entity is engaging in or
16 conducting business as an appraisal management company.
17 (3) In any way act as or provide the services of an appraisal management
18 company.

19 **"§ 93E-2-2. Definitions.**

20 (a) The following definitions apply in this Article:

- 21 (1) Appraisal management company. – A corporation, partnership, sole
22 proprietorship, subsidiary, unit, or other business entity that utilizes an
23 appraisal panel or fee panel and performs, directly or indirectly, appraisal
24 management services.

25 An appraisal management company does not include any of the following:

- 26 a. Any agency of the federal government or any State or municipal
27 government.
28 b. An appraiser who enters into an agreement, whether written or
29 otherwise, with another appraiser for the performance of an
30 appraisal, and upon completion of the appraisal, the appraisal report
31 is signed both by the appraiser who completed the appraisal and the
32 appraiser who requested the completion of the appraisal, except that



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- 1 an appraisal management company may not avoid the requirements
2 of this Article by requiring that an employee of the appraisal
3 management company who is an appraiser sign an appraisal report
4 that is completed by an appraiser who is a member of the appraisal
5 panel of the appraisal management company.
- 6 c. Any state or federally chartered bank, farm credit system, savings
7 institution, or credit union.
- 8 d. Any licensed real estate broker performing only activities in
9 accordance with Article 1 of this Chapter.
- 10 e. Any officer or employee of an exempt entity described in this
11 subdivision when acting in the scope of employment for the exempt
12 entity.
- 13 f. Any person licensed to practice law in this State, a court-appointed
14 personal representative or trustee who orders an appraisal in
15 connection with a bona fide client relationship in which the person
16 directly contracts with an independent appraiser.
- 17 (2) Appraisal management services. – Direct or indirect performance of any of
18 the following functions on behalf of a lender, financial institution, client, or
19 any other person:
- 20 a. Administer an appraiser panel.
- 21 b. Recruit, qualify, and/or verify licensing or certification of appraisers
22 who are or may become part of an appraiser panel.
- 23 c. Negotiate fees and service level expectations with appraisers who are
24 part of an appraiser panel.
- 25 d. Receive an order for an appraisal from one person and deliver the
26 order for the appraisal to an appraiser that is part of an appraiser
27 panel for completion.
- 28 e. Take and determine the status of orders for appraisals.
- 29 f. Conduct quality control of a completed appraisal performed by an
30 appraiser who is part of an appraiser panel prior to the delivery of the
31 appraisal to the person that ordered the appraisal.
- 32 g. Provide a completed appraisal performed by an appraiser who is part
33 of an appraiser panel to one or more persons who have ordered an
34 appraisal.
- 35 (3) Appraiser panel or fee panel. – A network of licensed or certified appraisers
36 who are independent contractors to the appraisal management company that
37 have:
- 38 a. Responded to an invitation, request, or solicitation from an appraisal
39 management company, in any form, to perform appraisals for
40 persons that have ordered appraisals through the appraisal
41 management company or to perform appraisals for the appraisal
42 management company directly, on a periodic basis, as requested and
43 assigned by the appraisal management company; and
- 44 b. Been selected and approved by an appraisal management company to
45 perform appraisals for any client or the appraisal management
46 company that has ordered an appraisal through the appraisal
47 management company or to perform appraisals for the appraisal
48 management company directly, on a periodic basis, as assigned by
49 the appraisal management company.
- 50 (4) Appraisal review. – The act or process of developing and communicating an
51 opinion about the quality of another appraiser's work that was performed as

1 part of an appraisal assignment, except that an examination of an appraisal
2 for grammatical, typographical, or other similar errors shall not be an
3 appraisal review.

4 (5) Board. – The North Carolina Appraisal Board under Article 1 of this
5 Chapter.

6 (6) Employee. – An individual who has an employment relationship
7 acknowledged by both the individual and the company and is treated as an
8 employee for purposes of compliance with federal income tax laws.

9 (7) Registrant. – A real estate appraisal management company registered
10 pursuant to this Article.

11 (b) The definitions contained in G.S. 93E-1-4 also apply in this Article.

12 **§ 93E-2-3. Rule-making authority.**

13 The Board shall have the authority to adopt rules that are reasonably necessary to
14 implement, administer, and enforce the provisions of this Article.

15 **§ 93E-2-4. Qualifications for registration; duties of registrants.**

16 (a) Any person or entity desiring to be registered as an appraisal management company
17 in this State shall make written application to the Board on forms prescribed by the Board
18 setting forth the applicant's qualifications for registration. The application shall be accompanied
19 by the applicable fee under G.S. 93E-2-6 and any other information the Board deems necessary
20 pursuant to rules adopted by the Board. Upon receipt of a properly completed application and
21 fee and upon a determination by the Board that the applicant is of good moral character, the
22 Board shall issue to the applicant a certificate of registration authorizing the applicant to act as
23 a real estate appraisal management company in this State.

24 (b) The registration required by subsection (a) of this section shall include the following
25 information:

26 (1) Legal name of the entity seeking registration.

27 (2) Business address of the entity seeking registration.

28 (3) Phone contact information of the entity seeking registration.

29 (4) If the entity is not a corporation that is domiciled in this State, the name and
30 contact information for the company's agent for service of process in this
31 State.

32 (5) The name, address, and contact information for any individual or any
33 corporation, partnership, or other business entity that owns ten percent
34 (10%) or more of the appraisal management company.

35 (6) The name, address, and contact information for the compliance manager.

36 (7) A certification that the entity has a system and process in place to verify that
37 a person being added to the appraiser panel of the appraisal management
38 company holds a license in good standing in this State pursuant to the North
39 Carolina Appraisers Act if a license or certification is required to perform
40 appraisals.

41 (8) A certification that the entity has a system in place to require that appraisers
42 inform the appraisal management company of their areas of geographic
43 competency, the types of properties the appraiser is competent to appraise,
44 and the methodologies the appraiser is competent to perform.

45 (9) A certification that the entity has a system in place to review the work of all
46 independent appraisers that are performing real estate appraisal services for
47 the appraisal management company on a periodic basis to validate that the
48 real estate appraisal services are being conducted in accordance with the
49 Uniform Standards of Professional Appraisal Practice.

50 (10) A certification that the entity maintains a detailed record of each service
51 request that it receives and the independent appraiser that performs the

1 residential real estate appraisal services for the appraisal management
2 company.

3 (11) An irrevocable Uniform Consent to Service of Process.

4 (12) Any other information required by the Board pursuant to G.S. 93E-2-3.

5 (c) Any registrant having a good faith belief that a real estate appraiser licensed in this
6 State has violated applicable law or the Uniform Standards of Professional Appraisal Practice
7 or engaged in unethical conduct shall promptly file a complaint with the Board.

8 (d) Registered appraisal management companies shall pay fees to an appraiser within
9 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant,
10 except in cases of noncompliance with the conditions of the engagement. In such cases, the
11 registrant shall notify the real estate appraiser in writing that the fees will not be paid.

12 (e) To qualify to be registered as an appraisal management company, each individual
13 who owns, directly or indirectly, more than ten percent (10%) of the appraisal management
14 company shall be of good moral character, as determined by the Board, and shall submit all
15 information the Board deems necessary pursuant to the rules adopted by the Board.
16 Additionally, each owner shall certify that he or she has never had a license to act as an
17 appraiser refused, denied, cancelled, or revoked by the State of North Carolina or any other
18 state.

19 (f) A registered appraisal management company shall not enter into any contracts or
20 agreements with an independent appraiser for the performance of residential real estate
21 appraisal services for properties located in this State unless the independent appraiser is
22 licensed or certified in good standing pursuant to the North Carolina Appraisers Act.

23 **"§ 93E-2-5. Compliance manager.**

24 Each appraisal management company registered under this Article shall designate a
25 compliance manager who is responsible for ensuring the company operates in compliance with
26 this Article. The compliance manager shall be a certified real estate appraiser on active status
27 and in good standing, certified under Article 1 of this Chapter or under the comparable laws of
28 another state. The appraisal management company shall file a form with the Board indicating
29 the appraisal management company's designation of compliance manager and the individual's
30 acceptance of the responsibility. An appraisal management company shall notify the Board of
31 any change in the appraisal management company's compliance manager. Any appraisal
32 management company that does not comply with this section shall have the appraisal
33 management company's registration suspended pursuant to G.S. 93E-2-8 until the appraisal
34 management company complies with this section. An individual operating an appraisal
35 management company as a sole proprietorship shall be considered the compliance manager for
36 purposes of this Article.

37 **"§ 93E-2-6. Fees and renewals.**

38 (a) Each application for registration as an appraisal management company under this
39 Article shall be accompanied by a registration fee in an amount set by the Board not to exceed
40 three thousand five hundred dollars (\$3,500). Registration issued under this Article shall expire
41 on June 30, 2012, and on June 30 of each year thereafter. The registration shall become invalid
42 after that date unless renewed before the expiration date by filing an application with and
43 paying to the Board a fee in an amount set by the Board not to exceed two thousand dollars
44 (\$2,000).

45 (b) All registrations reinstated after the expiration date are subject to a late filing fee of
46 twenty dollars (\$20.00) for each month or part thereof that the registration is lapsed, not to
47 exceed one hundred twenty dollars (\$120.00). The late filing fee shall be in addition to the
48 required renewal fee. In the event a registrant fails to reinstate the registration within six
49 months after the expiration date, the registration shall expire and the registrant shall be required
50 to file a new application for registration. Reinstatement of a registration shall not be retroactive.

1 (c) The Board may issue a replacement registration to the registrant upon payment of
2 fifty dollars (\$50.00) to the Board. The Board may certify the registration history of an
3 appraisal management company registered under this Article upon payment of a fee of one
4 hundred dollars (\$100.00) to the Board.

5 **"§ 93E-2-7. Prohibited acts.**

6 (a) No employee, director, officer, or agent of a registered appraisal management
7 company or any other third party acting as joint venture partner or independent contractor shall
8 influence or attempt to influence the development, reporting, result, or review of a real estate
9 appraisal through coercion, extortion, collusion, compensation, inducement, intimidation,
10 bribery, or in any other manner, including:

- 11 (1) Withholding or threatening to withhold timely payment for a real estate
12 appraisal report.
- 13 (2) Withholding or threatening to withhold future business from a real estate
14 appraiser or demoting or terminating or threatening to demote or terminate a
15 real estate appraiser.
- 16 (3) Expressly or impliedly promising future business, promotions, or increased
17 compensation for a real estate appraiser.
- 18 (4) Conditioning the ordering of a real estate appraisal report or the payment of
19 a real estate appraisal fee, salary, or bonus on the opinion, conclusion, or
20 valuation to be reached or on a preliminary estimate requested from a real
21 estate appraiser.
- 22 (5) Requesting that a real estate appraiser provide an estimated, predetermined,
23 or desired valuation in a real estate appraisal report or provide estimated
24 values or comparable sales at any time before the appraiser's completion of
25 the appraisal report.
- 26 (6) Providing to a real estate appraiser an anticipated, estimated, encouraged, or
27 desired value for a subject property or a proposed or targeted amount to be
28 loaned to the borrower. However, a real estate appraiser may be provided
29 with a copy of the sales contract for purchase transactions.
- 30 (7) Providing to a real estate appraiser, or any entity or person related to the
31 appraiser, stock or other financial or nonfinancial benefits.
- 32 (8) Allowing the removal of a real estate appraiser from a list of qualified
33 appraisers used by any entity without prior written notice to the appraiser.
34 The notice shall include written evidence of the appraiser's illegal conduct,
35 substandard performance, or otherwise improper or unprofessional behavior
36 or any violation of the Uniform Standards of Professional Appraisal Practice
37 or State licensing standards.
- 38 (9) Any other act or practice that impairs or attempts to impair a real estate
39 appraiser's independence, objectivity, or impartiality.
- 40 (10) Requesting or requiring a real estate appraiser to collect a fee from the
41 borrower, homeowner, or any other person in the provision of real estate
42 appraisal services.
- 43 (11) Altering, modifying, or otherwise changing a completed appraisal report
44 submitted by an independent appraiser without the appraiser's written
45 knowledge and consent.
- 46 (12) Using an appraisal report submitted by an independent appraiser for any
47 other transaction.
- 48 (13) Requiring an appraiser to indemnify an appraisal management company or
49 hold an appraisal management company harmless for any liability, damage,
50 losses, or claims arising out of the services performed by the appraisal
51 management company, and not the services performed by the appraiser.

1 (14) Requiring an appraiser to provide the company with the appraiser's digital
2 signature or seal.

3 (15) Requiring or attempting to require an appraiser to prepare an appraisal if the
4 appraiser, in the appraiser's own independent professional judgment,
5 believes the appraiser does not have the necessary expertise for the
6 assignment or for the specific geographic area and has notified the appraisal
7 management company and declined the assignment.

8 (16) Requiring or attempting to require an appraiser to prepare an appraisal under
9 a time frame that the appraiser, in the appraiser's own professional judgment,
10 believes does not afford the appraiser the ability to meet all the relevant legal
11 and professional obligations if the appraiser has notified the appraisal
12 management company and declined the assignment.

13 (b) Nothing in this section shall be construed as prohibiting an appraisal management
14 company from requesting that a real estate appraiser:

15 (1) Consider additional appropriate property information.

16 (2) Provide further detail, substantiation, or explanation for the real estate
17 appraiser's value conclusion, through the registrant's established dispute
18 process.

19 (3) Correct errors in the real estate appraisal report.

20 **"§ 93E-2-8. Disciplinary authority.**

21 (a) The Board may, by order, deny, suspend, revoke, or refuse to issue or renew a
22 registration of an appraisal management company under this Article or may restrict or limit
23 activities of a person who owns an interest in or participates in the business of an appraisal
24 management company if the Board determines that an applicant, registrant, or any partner,
25 member, manager, officer, director, compliance manager, or person occupying a similar status,
26 performing similar functions, or directly or indirectly controlling the applicant or registrant has
27 done any of the following:

28 (1) Filed an application for registration that, as of its effective date or as of any
29 date after filing, contained any statement that, in light of the circumstances
30 under which it was made, is false or misleading with respect to any material
31 fact.

32 (2) Violated or failed to comply with any provision of this Article or any rules
33 adopted by the Board.

34 (3) Been convicted of any felony or, within the past 10 years, been convicted of
35 any misdemeanor involving mortgage lending or real estate appraisal or any
36 offense involving breach of trust, moral turpitude, or fraudulent or dishonest
37 dealing.

38 (4) Been permanently or temporarily enjoined by any court of competent
39 jurisdiction from engaging in or continuing any conduct or practice
40 involving any aspect of the real estate appraisal management business.

41 (5) Been the subject of an order of the Board or any other state appraiser
42 regulatory agency denying, suspending, or revoking the person's license as a
43 real estate appraiser.

44 (6) Acted as an appraisal management company while not properly licensed by
45 the Board.

46 (7) Failed to pay the proper filing or renewal fee under this Article.

47 (b) The Board may, by order, summarily postpone or suspend the registration of an
48 appraisal management company pending final determination of any proceeding under this
49 section. Upon entering the order, the Board shall promptly notify the registrant that the order
50 has been entered and the reasons for the order. The Board shall calendar a hearing within 15
51 days after the Board receives a written request for a hearing. If a registrant does not request a

1 hearing, the order shall remain in effect until the order is modified or vacated by the Board. If a
2 hearing is requested, after notice of and opportunity for hearing, the Board may modify or
3 vacate the order or extend the order until the Board makes its final determination.

4 (c) The Board may, by order, impose a civil penalty upon a registrant or any partner,
5 officer, director, compliance manager, or other person occupying a similar status or performing
6 similar functions on behalf of a registrant for any violation of this Article. The civil penalty
7 shall not exceed ten thousand dollars (\$10,000) for each violation of this Article.

8 (d) In addition to other powers under this Article, upon finding that any action of a
9 person is in violation of this Article, the Board may order the person to cease from the
10 prohibited action. If the person subject to the order fails to appeal the order of the Board or the
11 person appeals the order and the appeal is denied or dismissed and the person continues to
12 engage in the prohibited action in violation of the Board's order, the person shall be subject to a
13 civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the order.
14 The penalty provision of this section shall be in addition to and not in lieu of any other
15 provision of law applicable to a registrant for the registrant's failure to comply with an order of
16 the Board.

17 (e) Unless otherwise provided, all actions and hearings under this Article shall be
18 governed by Article 3A of Chapter 150B of the General Statutes.

19 (f) When a registrant is accused of any act, omission, or misconduct that would subject
20 the registrant to disciplinary action, the registrant, with the consent and approval of the Board,
21 may surrender the registrant's registration and all the rights and privileges pertaining to the
22 registrant for a minimum period of five years. A person who surrenders a registration shall not
23 be eligible for or submit any application for registration during the period the registration is
24 surrendered.

25 (g) If the Board has reasonable grounds to believe that an appraisal management
26 company has violated the provisions of this Article or that facts exist that would be the basis for
27 an order against an appraisal management company, the Board may at any time, either
28 personally or by a person duly designated by the Board, investigate or examine the books,
29 accounts, records, and files of any registrant or other person relating to the complaint or matter
30 under investigation. The Board may require any registrant or other person to submit a criminal
31 history record check and a set of that person's fingerprints in connection with any examination
32 or investigation. Refusal to submit the requested criminal history record check or a set of
33 fingerprints shall be grounds for disciplinary action. The reasonable cost of the investigation or
34 examination shall be charged against the registrant.

35 (h) The Board shall have the power to issue subpoenas requiring the attendance of
36 persons and the production of papers and records before the Board in any hearing,
37 investigation, inquiry, or other proceeding conducted by the Board. Upon the production of any
38 papers, records, or documents, the Board shall have the power to authorize true copies of the
39 papers, records, or documents to be substituted in the permanent record of the matter in which
40 the books, records, or documents shall have been introduced in evidence.

41 (i) Upon a request by the Board and with reasonable notice, an appraisal management
42 company shall produce within this State all books and records related to real estate appraisal
43 management services provided for properties located in North Carolina.

44 **"§ 93E-2-9. Records.**

45 (a) The Board shall maintain a list of all applicants for registration under this Article
46 that includes for each applicant the date of application, the name and primary business location
47 of the applicant, and whether the registration was granted or refused.

48 (b) The Board shall maintain a current roster showing the names and places of business
49 of all registered appraisal management companies that lists the appraisal management
50 companies' respective officers and directors. The rosters shall: (i) be kept on file in the office of

1 the Board; (ii) contain information regarding all orders or other action taken against the
2 company, its officers, and other persons; and (iii) be open to public inspection.

3 (c) Every registered appraisal management company shall maintain the accounts,
4 correspondence, memoranda, papers, books, and other records related to services provided by
5 the appraisal management company as prescribed in rules adopted by the Board, including in
6 electronic form. All records shall be preserved for five years unless the Board, by rule,
7 prescribes otherwise for particular types of records.

8 (d) If the information contained in any document filed with the Board is or becomes
9 inaccurate or incomplete in any material respect, the appraisal management company shall
10 promptly file a correcting amendment to the information contained in the document.

11 **"§ 93E-2-10. Penalty; injunctive relief.**

12 (a) Any person violating the provisions of this Article shall be guilty of a Class 1
13 misdemeanor.

14 (b) The Board may appear in its own name in superior court in actions for injunctive
15 relief to prevent any person from violating the provisions of this Article or rules adopted by the
16 Board. The superior court shall have the power to grant these injunctions whether criminal
17 prosecution has been or may be instituted as a result of the violations or whether the person is
18 the holder of a registration issued by the Board under this Article.

19 **"§ 93E-2-11. Criminal history record checks of applicants or registrants for registration**
20 **as appraisal management companies.**

21 (a) Definitions. – The following definitions shall apply in this section:

22 (1) Applicant. – A person applying for registration as an appraisal management
23 company pursuant to G.S. 93E-2-4.

24 (2) Criminal history. – A history of conviction of a state or federal crime,
25 whether a misdemeanor or felony, that bears on an applicant's fitness for
26 registration to act as a real estate appraisal management company. The
27 crimes include the criminal offenses set forth in any of the following Articles
28 of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing
29 Monetary Substitutes; Article 5A, Endangering Executive and Legislative
30 Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses;
31 Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13,
32 Malicious Injury or Damage by Use of Explosive or Incendiary Device or
33 Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson
34 and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,
35 Embezzlement; Article 19, False Pretenses and Cheats; Article 19A,
36 Obtaining Property or Services by False or Fraudulent Use of Credit Device
37 or Other Means; Article 19B, Financial Transaction Card Crime Act; Article
38 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public
39 Morality and Decency; Article 26A, Adult Establishments; Article 27,
40 Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct
41 in Public Office; Article 35, Offenses Against the Public Peace; Article 36A,
42 Riots and Civil Disorders; Article 39, Protection of Minors; Article 40,
43 Protection of the Family; Article 59, Public Intoxication; and Article 60,
44 Computer-Related Crime. The crimes also include possession or sale of
45 drugs in violation of the North Carolina Controlled Substances Act in Article
46 5 of Chapter 90 of the General Statutes and alcohol-related offenses,
47 including sale to underage persons in violation of G.S. 18B-302 or driving
48 while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In
49 addition to the North Carolina crimes listed in this subdivision, such crimes
50 also include similar crimes under federal law or under the laws of other
51 states.

1 (b) The Board may require that an applicant for registration as an appraisal management
2 company or a registrant consent to a criminal history record check. Refusal to consent to a
3 criminal history record check may constitute grounds for the Board to deny registration to an
4 applicant or registrant. The Board shall ensure that the State and national criminal history of an
5 applicant or registrant is checked. The Board shall be responsible for providing to the North
6 Carolina Department of Justice the fingerprints of the applicant or registrant to be checked, a
7 form signed by the applicant or registrant consenting to the criminal record check and the use
8 of fingerprints and other identifying information required by the State or National Repositories
9 of Criminal Histories, and any additional information required by the Department of Justice in
10 accordance with G.S. 114-19.27. The Board shall keep all information obtained pursuant to this
11 section confidential. The Board shall collect any fees required by the Department of Justice and
12 shall remit the fees to the Department of Justice for expenses associated with conducting the
13 criminal history record check.

14 (c) If an applicant's or registrant's criminal history record check reveals one or more
15 convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically
16 bar registration. The Board shall consider all of the following factors regarding the conviction:

- 17 (1) The level of seriousness of the crime.
- 18 (2) The date of the crime.
- 19 (3) The age of the person at the time of the conviction.
- 20 (4) The circumstances surrounding the commission of the crime, if known.
- 21 (5) The nexus between the criminal conduct of the person and the job duties of
22 the position to be filled.
- 23 (6) The person's prison, jail, probation, parole, rehabilitation, and employment
24 records since the date the crime was committed.
- 25 (7) The subsequent commission by the person of a crime listed in subdivision
26 (a)(2) of this section.

27 If, after reviewing these factors, the Board determines that the applicant's or registrant's
28 criminal history disqualifies the applicant or registrant for registration, the Board may deny
29 registration of the applicant or registrant. The Board may disclose to the applicant or registrant
30 information contained in the criminal history record check that is relevant to the denial. The
31 Board shall not provide a copy of the criminal history record check to the applicant or
32 registrant. The applicant or registrant shall have the right to appear before the Board to appeal
33 the Board's decision. However, an appearance before the full Board shall constitute an
34 exhaustion of administrative remedies in accordance with Chapter 150B of the General
35 Statutes.

36 (d) Limited Immunity. – The Board, its officers, and employees, acting in good faith
37 and in compliance with this section, shall be immune from civil liability for denying
38 registration to an applicant or registrant based on information provided in the applicant's or
39 registrant's criminal history record check."

40 **SECTION 2.** Article 4 of Chapter 114 of the General Statutes is amended by
41 adding a new section to read:

42 **"§ 114-19.27. Criminal history record checks of applicants or registrants for registration**
43 **as real estate appraisal management companies.**

44 The Department of Justice may provide to the North Carolina Appraisal Board from the
45 State and National Repositories of Criminal Histories the criminal history of any applicant or
46 registrant for registration under Article 2 of Chapter 93E of the General Statutes. Along with
47 the request, the Board shall provide to the Department of Justice the fingerprints of the
48 applicant or registrant, a form signed by the applicant or registrant consenting to the criminal
49 history record check and use of fingerprints and other identifying information required by the
50 State and National Repositories, and any additional information required by the Department of
51 Justice. The applicant's or registrant's fingerprints shall be forwarded to the State Bureau of

1 Investigation for a search of the State's criminal history record file, and the State Bureau of
2 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a
3 national criminal history record check. The Board shall keep all information obtained pursuant
4 to this section confidential. The Department of Justice may charge a fee to offset the cost
5 incurred by the Department to conduct a criminal history record check under this section. The
6 fee shall not exceed the actual cost of locating, editing, researching, and retrieving the
7 information."

8 **SECTION 3.** G.S. 93E-1-5(a) reads as rewritten:

9 "(a) There is created the North Carolina Appraisal Board for the purposes set forth in
10 this Chapter. The Board shall consist of nine members. The Governor shall appoint five
11 members of the Board, and the General Assembly shall appoint four members in accordance
12 with G.S. 120-121, two upon the recommendation of the President Pro Tempore of the Senate
13 and two upon the recommendation of the Speaker of the House of Representatives. Members
14 appointed by the Governor shall be appointed from geographically diverse areas of the State.
15 The appointees recommended by the Speaker of the House of Representatives and four of the
16 appointees of the Governor shall be persons who have been engaged in the business of real
17 estate appraising in this State for at least five years immediately preceding their appointment
18 and are also State-licensed or State-certified real estate appraisers. One of the appointees of the
19 Governor shall be a person representing either the real estate appraisal management industry or
20 the banking industry. No more than three of the appointees may be members of the same
21 appraiser trade organization at any one time. The appointees recommended by the President Pro
22 Tempore of the Senate shall be a person not involved directly or indirectly in the real estate,
23 real estate appraisal, or the real estate lending industry. Members of the Board shall serve
24 three-year terms, so staggered that the terms of three members expire in one year, the terms of
25 three members expire in the next year, and the terms of three members expire in the third year
26 of each three-year period. The members of the Board shall elect one of their members to serve
27 as chairman of the Board for a term of one year. The Governor may remove any member of the
28 Board appointed by the Governor for misconduct, incompetency, or neglect of duty. The
29 General Assembly may remove any member appointed by it for the same reasons. Successors
30 shall be appointed by the appointing authority making the original appointment. All vacancies
31 occurring on the Board shall be filled, for the unexpired term, by the appointing authority
32 making the original appointment. Vacancies in appointments made by the General Assembly
33 shall be filled in accordance with G.S. 120-122. Initial terms of office commenced July 1,
34 1994."

35 **SECTION 4.** G.S. 93E-2-3, as enacted by Section 1 of this act, is effective when it
36 becomes law. The remainder of this act becomes effective January 1, 2011.