WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 597

SENATORS BOSO AND SYPOLT, original sponsors

[Passed March 7, 2019; in effect 90 days from passage]
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AN ACT to amend and reenact §30-38A-7, §30-38A-12, and §30-38A-17 of the Code of West Virginia, 1931, as amended, all relating to conforming the state law to the federal law for appraisal management companies’ registration; expanding certification requirements; changing requirements for removing appraiser from panel; and imposing disciplinary action reporting requirement.

Be it enacted by the Legislature of West Virginia:

ARTICLE 38A. APPRAISAL MANAGEMENT COMPANIES REGISTRATION ACT.

§30-38A-7. Certification requirements.

(a) The certification for registration shall be in writing, on a form prescribed by the board and signed by the applicant or controlling person. The certification shall include statements that the applicant:

(1) Has a process in place to verify that any person used as an appraiser or added to the appraiser panel of the applicant is a licensed or certified appraiser in good standing in West Virginia;

(2) Has set requirements to verify that appraisers are geographically competent and can perform the appraisals assigned;

(3) Has set procedures for an appraiser, licensed or certified in this state or in any state with a minimum of the same certification level for the property type as the appraiser who performed the appraisal, to review the work of the appraisers performing appraisals for the applicant to verify that the appraisals are being conducted in accordance with the minimum Uniform Standards of Professional Appraisal Practice (USPAP) standards;

(4) Will require appraisals to be conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act and the rules and regulations issued pursuant to the Act, including the requirement that appraisers be compensated at a customary and reasonable
rate when the appraisal management company is providing services for a consumer credit
transaction secured by the principal dwelling of a consumer;

(5) Maintains a detailed record of each request for appraisal it receives from a client and
the appraiser that performs the appraisal; and

(6) Has submitted any other information required by the board.

(b) The applicant, each owner, and any controlling person shall submit a written
verification, on a form prescribed by the board, that includes statements that:

(1) The written application and verification for registration contain no false or misleading
statements;

(2) The applicant has complied with the requirements of this article;

(3) The applicant, each owner, and the controlling person of the firm seeking registration
has not pleaded guilty or nolo contendere to or been convicted of a felony;

(4) Within the past 10 years, the applicant, each owner, and the controlling person of the
firm seeking registration has not pleaded guilty or nolo contendere to or been convicted of:

(A) A misdemeanor involving mortgage lending or real estate appraisals; or

(B) An offense involving breach of trust or fraudulent or dishonest dealing;

(5) The applicant, each owner, and the controlling person of the firm seeking registration
are of good character and reputation and that none of them has had a license or certificate to act
as an appraiser refused, denied, canceled, revoked, or surrendered in this state or any other
jurisdiction, and the license or certification was not subsequently granted or reinstated;

(6) The applicant, each owner, and the controlling person of the firm seeking registration
are not permanently or temporarily enjoined by a court of competent jurisdiction from engaging in
or continuing any conduct or practice involving appraisals, appraisal management services, or
operating an appraisal management company;

(7) The applicant, each owner, and the controlling person of the firm seeking registration
are not the subject of an order of the board or any other jurisdiction’s agency that regulates
44 appraisal management companies that denied, suspended, or revoked the applicant’s or firm’s
45 privilege to operate as an appraisal management company;
46
47 (8) The applicant, each owner, and the controlling person of the firm seeking registration
48 have not acted as an appraisal management company while not being properly registered by the
49 board; and
50
51 (9) Set forth any other requirements of the board.

§30-38A-12. Requirements for removal from an appraiser panel.
1 (a) An appraisal management company may only remove an appraiser from an appraiser
2 panel or refuse to assign appraisals to an appraiser after providing the appraiser 20 days’ prior
3 written notice stating the reasons for the removal or refusal and providing an opportunity for the
4 appraiser to be heard.
5
6 (b) An appraiser who is removed from an appraiser panel or refused appraisal
7 assignments for an alleged act or omission that would constitute grounds for disciplinary action
8 under the provisions of §30-38-12 of this code, a violation of the Uniform Standards of
9 Professional Appraisal Practice (USPAP), or a violation of state law or legislative rule may file a
10 complaint with the board for a review of the appraisal management company’s decision.
11
12 (c) The board’s review under this subsection is limited to determining whether:
13
14 (1) The appraisal management company has complied with subsection (a) of this section;
15 and
16
17 (2) The appraiser has engaged in an act or omission that would constitute grounds for
18 disciplinary action under the provisions of §30-38-12 of this code, or has committed a violation of
19 the USPAP or a violation of state law or legislative rule.
20
21 (d) The board shall hold a hearing on the complaint within a reasonable time, not
22 exceeding six months after the complaint was filed, unless there are extenuating circumstances
23 that are noted in the board’s minutes.
(e) If the board determines after the hearing that an appraisal management company acted improperly, then the board shall order the appraisal management company to restore the appraiser to the appraiser panel or assign appraisals to the appraiser.  

(f) After the board’s order, an appraisal management company may not:  

(1) Reduce the number of appraisals given to the appraiser; or  

(2) Penalize the appraiser in any other manner.  

§30-38A-17. Notice and hearing procedures.  

(a) The board, on its own motion or upon receipt of a written complaint, may investigate an appraisal management company, a person or firm associated with an appraisal management company, or a person or firm performing appraisal management services.  

(b) If the board determines after the investigation there are grounds for disciplinary action, the board may hold a hearing after giving 30 days' prior notice.  

(c) The board has the same powers set out in §30-38-1 et seq. of this code.  

(d) After notice and a hearing, the board may:  

(1) Deny, revoke, or refuse to issue or renew the registration of an appraisal management company or restrict or limit the activities of an appraisal management company or of a person or firm that owns an interest in or participates in the business of an appraisal management company;  

(2) Impose a fine not to exceed $25,000 for each violation; or  

(3) Take other disciplinary action as established by the board by rule.  

(e) The board may seek injunctive relief in the Kanawha County Circuit Court to prevent a person or firm from violating the provisions of this article or the rules promulgated hereunder. The circuit court may grant a temporary or permanent injunction.  

(f) Within five days of a final disciplinary action, the board will report any action taken to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council via its extranet application.
Enr CS for SB 597

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark R. Wagner
Chairman, Senate Committee

Moore Capitos
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Joebar
Clerk of the Senate

Steve Aydoun
Clerk of the House of Delegates

Willy B. Casaus
President of the Senate

Los Hales
Speaker of the House of Delegates

The within is approved this the 25th Day of ___, 2019.

Governor