

Amendment No. 911

Senate Amendment to Assembly Bill No. 287 Second Reprint (BDR 54-1019)

Proposed by: Senator Parks

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 287 (§ 15).

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

AAK/WLK



Date: 5/21/2009

A.B. No. 287—Makes various changes concerning appraisals of real estate.
(BDR 54-1019)



ASSEMBLY BILL NO. 287—ASSEMBLYMEN HORNE, ATKINSON, CONKLIN, OCEGUERA;
ANDERSON, ARBERRY, BUCKLEY, HAMBRICK, KIRKPATRICK, MANENDO,
MORTENSON, SEGERBLOM AND SPIEGEL

MARCH 10, 2009

JOINT SPONSOR: SENATOR PARKS

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning appraisals of real estate.
(BDR 54-1019)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. **Sections 1, 2, 24 and 27** of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

Section 23 of this bill revises the requirements for continuing education for appraisers.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.


9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of section 4 of this act.

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000  if the applicant:

1 (a) Has knowingly made or caused to be made to the Commissioner any false
2 representation of material fact;

3 (b) Has suppressed or withheld from the Commissioner any information which
4 the applicant possesses and which, if submitted by him, would have rendered the
5 applicant ineligible to be licensed pursuant to the provisions of this chapter; or

6 (c) Has violated any provision of this chapter, a regulation adopted pursuant to
7 this chapter or an order of the Commissioner in completing and filing his
8 application for a license or during the course of the investigation of his application
9 for a license.

10 2. For each violation committed by a mortgage broker, the Commissioner
11 may impose upon the mortgage broker an administrative fine of not more than
12 \$10,000, may suspend, revoke or place conditions upon his license, or may do both,
13 if the mortgage broker, whether or not acting as such:

14 (a) Is insolvent;

15 (b) Is grossly negligent or incompetent in performing any act for which he is
16 required to be licensed pursuant to the provisions of this chapter;

17 (c) Does not conduct his business in accordance with law or has violated any
18 provision of this chapter, a regulation adopted pursuant to this chapter or an order
19 of the Commissioner;

20 (d) Is in such financial condition that he cannot continue in business with
21 safety to his customers;

22 (e) Has made a material misrepresentation in connection with any transaction
23 governed by this chapter;

24 (f) Has suppressed or withheld from a client any material facts, data or other
25 information relating to any transaction governed by the provisions of this chapter
26 which the mortgage broker knew or, by the exercise of reasonable diligence, should
27 have known;

28 (g) Has knowingly made or caused to be made to the Commissioner any false
29 representation of material fact or has suppressed or withheld from the
30 Commissioner any information which the mortgage broker possesses and which, if
31 submitted by him, would have rendered the mortgage broker ineligible to be
32 licensed pursuant to the provisions of this chapter;

33 (h) Has failed to account to persons interested for all money received for a trust
34 account;

35 (i) Has refused to permit an examination by the Commissioner of his books
36 and affairs or has refused or failed, within a reasonable time, to furnish any
37 information or make any report that may be required by the Commissioner pursuant
38 to the provisions of this chapter or a regulation adopted pursuant to this chapter;

39 (j) Has been convicted of, or entered a plea of nolo contendere to, a felony
40 relating to the practice of mortgage brokers or any crime involving fraud,
41 misrepresentation or moral turpitude;

42 (k) Has refused or failed to pay, within a reasonable time, any fees,
43 assessments, costs or expenses that the mortgage broker is required to pay pursuant
44 to this chapter or a regulation adopted pursuant to this chapter;

45 (l) Has failed to satisfy a claim made by a client which has been reduced to
46 judgment;

47 (m) Has failed to account for or to remit any money of a client within a
48 reasonable time after a request for an accounting or remittal;

49 (n) Has commingled the money or other property of a client with his own or
50 has converted the money or property of others to his own use;

51 (o) Has engaged in any other conduct constituting a deceitful, fraudulent or
52 dishonest business practice;

53 (p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) *Has violated section 4 of this act;*

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~(v)~~ (v) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) *Has violated section 4 of this act;*

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~(k)~~ (k) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 4 to 21, inclusive, of this act.

Sec. 4. 1. *A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.*

2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or

(c) Correct errors in his appraisal.

Sec. 5. *"Appraisal firm" means a person, limited-liability company, partnership, association or corporation:*

1. Which, for compensation, prepares and communicates appraisals;

2. Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and

3. Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.

Sec. 6. 1. *"Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:*

(a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

(b) Administers a network of appraisers performing real estate appraisal services as independent contractors;

(c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

(d) Otherwise serves as a third-party broker of appraisal services.

2. The term does not include:

(a) An appraisal firm;

(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;

(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and

(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.

Sec. 7. *If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with*

1 *the State Treasurer for credit to the State General Fund. The Commission may*
2 *present a claim to the State Board of Examiners for recommendation to the*
3 *Interim Finance Committee if money is needed to pay an attorney's fee or the*
4 *cost of an investigation, or both.*

5 **Sec. 8.** *Except as otherwise provided in section 9 of this act, it is unlawful*
6 *for any person, limited-liability company, partnership, association or corporation*
7 *to engage in the business of, act in the capacity of, advertise or assume to act as*
8 *an appraisal management company without first obtaining a registration from*
9 *the Division pursuant to sections 7 to 21, inclusive, of this act.*

10 **Sec. 9.** *The provisions of sections 7 to 21, inclusive, of this act do not apply*
11 *to:*

12 1. *A person, limited-liability company, partnership, association or*
13 *corporation other than an appraisal management company which, in the normal*
14 *course of its business, employs persons for the performance of real estate*
15 *appraisal services; or*

16 2. *An appraisal management company that enters into not more than nine*
17 *contracts annually with independent contractors in this State.*

18 **Sec. 10.** 1. *A person who wishes to be registered as an appraisal*
19 *management company in this State must file a written application with the*
20 *Division upon a form prepared and furnished by the Division and pay the fee*
21 *required pursuant to section 15 of this act. An application must:*

22 (a) *State the name, residence address and business address of the applicant*
23 *and the location of each principal office and branch office at which the appraisal*
24 *management company will conduct business within this State;*

25 (b) *State the name under which the applicant will conduct business as an*
26 *appraisal management company;*

27 (c) *List the name, residence address and business address of each person*
28 *who will, if the applicant is not a natural person, have an interest in the appraisal*
29 *management company as a principal, partner, officer, director or trustee,*
30 *specifying the capacity and title of each such person; and*

31 ~~(d) Include a general business plan and a description of the policies and~~
32 ~~procedures that the appraisal management company and its employees and~~
33 ~~independent contractors will follow in providing real estate appraisal services~~
34 ~~pursuant to this chapter;~~

35 ~~—(e) Include a financial statement of the applicant; and~~

36 ~~—(f) Include a complete set of the fingerprints of the applicant or, if the~~
37 ~~applicant is not a natural person, a complete set of the fingerprints of each~~
38 ~~person who will have an interest in the appraisal management company as a~~
39 ~~principal, partner, officer, director or trustee, and written permission authorizing~~
40 ~~the Division to forward the fingerprints to the Central Repository for Nevada~~
41 ~~Records of Criminal History for submission to the Federal Bureau of~~
42 ~~Investigation for its report.~~

43 2. *Except as otherwise provided in sections 7 to 21, inclusive, of this act, the*
44 *Division shall issue a registration to an applicant as an appraisal management*
45 *company if:*

46 (a) *The application is verified by the Division and complies with the*
47 *requirements of sections 7 to 21, inclusive, of this act.*

48 (b) *The applicant and each general partner, officer or director of the*
49 *applicant, if the applicant is a partnership, corporation or unincorporated*
50 *association:*

51 (1) *Submits satisfactory proof to the Division that he has a good*
52 *reputation for honesty, trustworthiness and integrity and displays competence to*

1 *transact the business of an appraisal management company in a manner which*
2 *safeguards the interests of the general public.*

3 (2) *Has not been convicted of, or entered a plea of nolo contendere to, a*
4 *felony relating to the practice of appraisal or any crime involving fraud,*
5 *misrepresentation or moral turpitude.*

6 (3) *Has not made a false statement of material fact on his application.*

7 (4) *Has not had a license that was issued pursuant to the provisions of*
8 *this chapter suspended, revoked or voluntarily surrendered in lieu of suspension*
9 *or revocation within the 10 years immediately preceding the date of his*
10 *application.*

11 (5) *Has not had a professional license that was issued in any other state,*
12 *district or territory of the United States or any foreign country suspended or*
13 *revoked within the 10 years immediately preceding the date of his application.*

14 (6) *Has not violated any provision of this chapter, a regulation adopted*
15 *pursuant thereto or an order of the Commission or the Administrator.*

16 (c) *The applicant certifies that he:*

17 (1) *Has a process in place to verify that each independent contractor that*
18 *provides services to the appraisal management company is the holder of a license*
19 *in good standing to practice appraisal in this State.*

20 (2) *Has a process in place to review the work of each independent*
21 *contractor that provides services to the appraisal management company to ensure*
22 *that those services are conducted in accordance with the Uniform Standards of*
23 *Professional Appraisal Practice.*

24 (3) *Will maintain a detailed record of each request for service it receives*
25 *and the independent contractor who fulfilled that request.*

26 (d) *The applicant discloses whether or not the company uses an appraiser fee*
27 *schedule. For the purposes of this paragraph, "appraiser fee schedule" means a*
28 *list of the various real estate appraisal services requested by the appraisal*
29 *management company from independent contractors and the amount the*
30 *company will pay for the performance of each service listed.*

31 **Sec. 11. 1.** *In addition to any other requirements set forth in this chapter:*

32 (a) *An applicant for the issuance of a registration as an appraisal*
33 *management company shall include the social security number of the applicant*
34 *in the application submitted to the Division.*

35 (b) *An applicant for the issuance or renewal of a registration as an appraisal*
36 *management company shall submit to the Division the statement prescribed by*
37 *the Division of Welfare and Supportive Services of the Department of Health and*
38 *Human Services pursuant to NRS 425.520. The statement must be completed and*
39 *signed by the applicant.*

40 2. *The Division shall include the statement required pursuant to subsection*
41 *1 in:*

42 (a) *The application or any other forms that must be submitted for the*
43 *issuance or renewal of the registration; or*

44 (b) *A separate form prescribed by the Division.*

45 3. *A registration as an appraisal management company may not be issued*
46 *or renewed by the Division if the applicant:*

47 (a) *Fails to submit the statement required pursuant to subsection 1; or*

48 (b) *Indicates on the statement submitted pursuant to subsection 1 that he is*
49 *subject to a court order for the support of a child and is not in compliance with*
50 *the order or a plan approved by the district attorney or other public agency*
51 *enforcing the order for the repayment of the amount owed pursuant to the order.*

52 4. *If an applicant indicates on the statement submitted pursuant to*
53 *subsection 1 that he is subject to a court order for the support of a child and is*

1 *not in compliance with the order or a plan approved by the district attorney or*
2 *other public agency enforcing the order for the repayment of the amount owed*
3 *pursuant to the order, the Division shall advise the applicant to contact the*
4 *district attorney or other public agency enforcing the order to determine the*
5 *actions that the applicant may take to satisfy the arrearage.*

6 **Sec. 12.** 1. *In addition to any other requirements set forth in this chapter,*
7 *an applicant for the issuance or renewal of a registration as an appraisal*
8 *management company shall submit to the Division the statement prescribed by*
9 *the Division of Welfare and Supportive Services of the Department of Health and*
10 *Human Services pursuant to NRS 425.520. The statement must be completed and*
11 *signed by the applicant.*

12 2. *The Division shall include the statement required pursuant to subsection*
13 *1 in:*

14 (a) *The application or any other forms that must be submitted for the*
15 *issuance or renewal of the registration; or*

16 (b) *A separate form prescribed by the Division.*

17 3. *A registration as an appraisal management company may not be issued*
18 *or renewed by the Division if the applicant:*

19 (a) *Fails to submit the statement required pursuant to subsection 1; or*

20 (b) *Indicates on the statement submitted pursuant to subsection 1 that he is*
21 *subject to a court order for the support of a child and is not in compliance with*
22 *the order or a plan approved by the district attorney or other public agency*
23 *enforcing the order for the repayment of the amount owed pursuant to the order.*

24 4. *If an applicant indicates on the statement submitted pursuant to*
25 *subsection 1 that he is subject to a court order for the support of a child and is*
26 *not in compliance with the order or a plan approved by the district attorney or*
27 *other public agency enforcing the order for the repayment of the amount owed*
28 *pursuant to the order, the Division shall advise the applicant to contact the*
29 *district attorney or other public agency enforcing the order to determine the*
30 *actions that the applicant may take to satisfy the arrearage.*

31 **Sec. 13.** 1. *An applicant for registration under sections 7 to 21, inclusive,*
32 *of this act shall file with the Division, in a form prescribed by regulation, an*
33 *irrevocable consent appointing the Administrator his agent for service of process*
34 *in a noncriminal proceeding against him, a successor or personal representative*
35 *which arises under sections 7 to 21, inclusive, of this act or a regulation or order*
36 *of the Commission after the consent is filed, with the same force and validity as if*
37 *served personally on the person filing the consent.*

38 2. *A person who has filed a consent complying with subsection 1 in*
39 *connection with a previous application for registration need not file an additional*
40 *consent.*

41 3. *If a person, including a nonresident of this State, engages in conduct*
42 *prohibited or made actionable by sections 7 to 21, inclusive, of this act or a*
43 *regulation or order of the Commission and the person has not filed a consent to*
44 *service of process under subsection 1, engaging in the conduct constitutes the*
45 *appointment of the Administrator as the person's agent for service of process in a*
46 *noncriminal proceeding against him, a successor or personal representative*
47 *which grows out of the conduct.*

48 4. *Service under subsection 1 or 3 may be made by leaving a copy of the*
49 *process in the Office of the Administrator, but it is not effective unless:*

50 (a) *The plaintiff, who may be the Administrator, sends notice of the service*
51 *and a copy of the process by registered or certified mail, return receipt requested,*
52 *to the defendant or respondent at the address set forth in the consent to service of*
53 *process or, if no consent to service of process has been filed, at the last known*

address, or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.

5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.

6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 14. A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:

1. An application for renewal;

2. The fee required to renew the registration pursuant to section 15 of this act; and

3. All information required to complete the renewal.

Sec. 15. A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:

1. To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than \$2,500 for the principal office and not more than \$100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.

2. To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than \$500 for the principal office and not more than \$100 for each branch office.

Sec. 16. 1. If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.

2. The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 17. 1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:

(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;

(b) Withholding or threatening to withhold future business for an independent appraiser;

(c) Terminating an agreement with an independent contractor without prior written notice;

(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;

(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;

(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;

(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions;

(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;

(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:

(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or

(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;

~~(j) [Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards];~~

~~—(k)—~~ Accepting a fee for performing appraisal management services if the fee is contingent on:

(1) An appraisal report having a predetermined analysis, opinion or conclusion;

(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or

(3) The consequences resulting from an appraisal assignment; or

~~[(4)]~~ (k) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.

Sec. 18. It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.

Sec. 19. 1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.

2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.

Sec. 20. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a

1 registration, the Division shall deem the registration to be suspended at the end of
2 the 30th day after the date the court order was issued unless the Division receives
3 a letter issued to the holder of the registration by the district attorney or other
4 public agency pursuant to NRS 425.550 stating that the holder of the registration
5 has complied with the subpoena or warrant or has satisfied the arrearage
6 pursuant to NRS 425.560.

7 2. The Division shall reinstate a registration that has been suspended by a
8 district court pursuant to NRS 425.540 if the Division receives a letter issued by
9 the district attorney or other public agency pursuant to NRS 425.550 to the holder
10 of the registration stating that the holder of the registration has complied with the
11 subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

12 **Sec. 21. 1.** For each violation committed by an applicant for a
13 registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or
14 not he is issued a registration, the Commission may impose upon the applicant an
15 administrative fine of not more than \$10,000 if the applicant:

16 (a) Has knowingly made or caused to be made to the Commission any false
17 representation of material fact;

18 (b) Has suppressed or withheld from the Commission any information which
19 the applicant possesses and which, if submitted by him, would have rendered the
20 applicant ineligible to be registered pursuant to the provisions of sections 7 to 21,
21 inclusive, of this act; or

22 (c) Has violated any provision of sections 7 to 21, inclusive, of this act, a
23 regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order
24 of the Commission in completing and filing his application for a registration or
25 during the course of the investigation of the application for a registration.

26 2. For each violation committed by an appraisal management company, the
27 Commission may impose upon the appraisal management company an
28 administrative fine of not more than \$10,000, may suspend, revoke or place
29 conditions on the registration or may do both, if the appraisal management
30 company, whether or not acting as such:

31 (a) Is grossly negligent or incompetent in performing any act for which the
32 appraisal management company is required to be registered pursuant to sections
33 7 to 21, inclusive, of this act;

34 (b) Does not conduct its business in accordance with the law or has violated
35 any provision of this chapter, a regulation adopted pursuant thereto or an order
36 of the Commission;

37 (c) Has made a material representation in connection with any transaction
38 governed by this chapter;

39 (d) Has suppressed or withheld from a client any material facts, data or other
40 information relating to any transaction governed by the provisions of this chapter
41 which the appraisal management company knew or, by the exercise of reasonable
42 diligence, should have known;

43 (e) Has knowingly made or caused to be made to the Commission any false
44 representation of material fact or has suppressed or withheld from the
45 Commission any information which the appraisal management company
46 possesses and which, if submitted by the appraisal management company, would
47 have rendered the appraisal management company ineligible to be registered
48 pursuant to the provisions of sections 7 to 21, inclusive, of this act;

49 (f) Has been convicted of, or entered a plea of nolo contendere to, a felony
50 relating to the practice of appraisal or any crime involving fraud,
51 misrepresentation or moral turpitude; or

52 (g) Has engaged in any other conduct constituting a deceitful, fraudulent or
53 dishonest business practice.

1 **Sec. 22.** NRS 645C.010 is hereby amended to read as follows:

2 645C.010 As used in this chapter, unless the context otherwise requires, the
3 words and terms defined in NRS 645C.020 to 645C.130, inclusive, *and sections 5*
4 *and 6 of this act* have the meanings ascribed to them in those sections.

5 **Sec. 23.** NRS 645C.430 is hereby amended to read as follows:

6 645C.430 1. An appraiser must complete the requirements for continuing
7 education prescribed by regulations adopted by the Commission as a condition to
8 the renewal of an active certificate or license or the reinstatement of an inactive
9 certificate or license. Until the Commission adopts those regulations, the standards
10 for continuing education are as follows:

11 (a) For the renewal of an active certificate or license, not less than 30 hours of
12 instruction within the 2 years immediately preceding the application for renewal.

13 (b) For the reinstatement of a certificate or license which has been on inactive
14 status, ~~for~~

15 ~~(1) For not more than 2 years, or for more than 2 years including the initial~~
16 ~~period of certification or licensure, not less than 30 hours of instruction.~~

17 ~~(2) For more than 2 years, no part of which includes the initial period of~~
18 ~~certification or licensure.]~~ not less than 15 hours of instruction per year for each
19 year that the certificate or license was on inactive status. ~~[; not to exceed 60 hours~~
20 ~~of instruction.]~~

21 *↳ The required hours of instruction must include the most recent edition of the*
22 *7-hour National Uniform Standards of Professional Appraisal Practice Update*
23 *Course.*

24 2. As used in this section, an “hour of instruction” means at least 50 minutes
25 of actual time spent receiving instruction.

26 **Sec. 24.** NRS 645C.460 is hereby amended to read as follows:

27 645C.460 1. Grounds for disciplinary action against a certified or licensed
28 appraiser or registered intern include:

29 (a) Unprofessional conduct;

30 (b) Professional incompetence;

31 (c) *Any violation of section 4 of this act;*

32 (d) A criminal conviction for a felony relating to the practice of appraisers or
33 any offense involving moral turpitude; and

34 ~~[(d)]~~ (e) The suspension ~~for~~, revocation *or voluntary surrender in lieu of*
35 *other discipline* of a registration card, certificate, license or permit to act as an
36 appraiser in any other jurisdiction.

37 2. If grounds for disciplinary action against an appraiser or intern exist, the
38 Commission may do one or more of the following:

39 (a) Revoke or suspend his certificate, license or registration card.

40 (b) Place conditions upon his certificate, license or registration card, or upon
41 the reissuance of a certificate, license or registration card revoked pursuant to this
42 section.

43 (c) Deny the renewal of his certificate, license or registration card.

44 (d) Impose a fine of not more than \$10,000 for each violation.

45 3. If a certificate, license or registration card is revoked by the Commission,
46 another certificate, license or registration card must not be issued to the same
47 appraiser or intern for at least 1 year after the date of the revocation, or at any time
48 thereafter except in the sole discretion of the Administrator, and then only if the
49 appraiser or intern satisfies all the requirements for an original certificate, license or
50 registration card.

51 4. An order that imposes discipline and the findings of fact and conclusions of
52 law supporting that order are public records.

1 **Sec. 25.** NRS 645C.470 is hereby amended to read as follows:

2 645C.470 A certified or licensed appraiser or registered intern is guilty of
3 unprofessional conduct if he:

4 1. Willfully uses a trade name, service mark or insignia indicating membership
5 in an organization for appraisers of which he is not a member;

6 2. Violates any order of the Commission, agreement with the Division,
7 provision of this chapter or provision of any regulation adopted pursuant to this
8 chapter;

9 3. Fails to disclose to any person with whom he is dealing any material fact or
10 other information he knows, or in the exercise of reasonable care and diligence
11 should know, concerning or relating to any real estate he appraises, including any
12 interest he has in the real estate;

13 4. Knowingly communicates a false or fraudulent appraisal to any interested
14 person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

15 5. ~~{Enters}~~ Prepares or provides or enters into a contract to prepare or
16 provide an appraisal ~~{by which}~~ if his compensation is based partially or entirely on
17 , or is otherwise affected by, the amount of the appraised value of the real estate;

18 6. Before obtaining his license or registration card, engaged in any conduct of
19 which the Division is not aware that would be a ground for the denial of a
20 certificate, license or registration card; or

21 7. Makes a false statement of material fact on his application.

22 **Sec. 26.** NRS 645C.555 is hereby amended to read as follows:

23 645C.555 1. In addition to any other remedy or penalty, the Commission
24 may impose an administrative fine against any person who knowingly:

25 (a) Engages or offers to engage in any activity for which a certificate, license ,
26 registration or registration card or any type of authorization is required pursuant to
27 this chapter, or any regulation adopted pursuant thereto, if the person does not hold
28 the required certificate, license , registration or registration card or has not been
29 given the required authorization; or

30 (b) Assists or offers to assist another person to commit a violation described in
31 paragraph (a).

32 2. If the Commission imposes an administrative fine against a person pursuant
33 to this section, the amount of the administrative fine may not exceed the amount of
34 any gain or economic benefit that the person derived from the violation or \$5,000,
35 whichever amount is greater.

36 3. In determining the appropriate amount of the administrative fine, the
37 Commission shall consider:

38 (a) The severity of the violation and the degree of any harm that the violation
39 caused to other persons;

40 (b) The nature and amount of any gain or economic benefit that the person
41 derived from the violation;

42 (c) The person's history or record of other violations; and

43 (d) Any other facts or circumstances that the Commission deems to be
44 relevant.

45 4. Before the Commission may impose the administrative fine, the
46 Commission must provide the person with notice and an opportunity to be heard.

47 5. The person is entitled to judicial review of the decision of the Commission
48 in the manner provided by chapter 233B of NRS.

49 6. The provisions of this section do not apply to a person who engages or
50 offers to engage in activities within the purview of this chapter if:

51 (a) A specific statute exempts the person from complying with the provisions
52 of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 27. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000 ~~+~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

1 (m) Has failed to satisfy a claim made by a client which has been reduced to
2 judgment;

3 (n) Has failed to account for or to remit any money of a client within a
4 reasonable time after a request for an accounting or remittal;

5 (o) *Has violated section 4 of this act;*

6 (p) Has commingled the money or other property of a client with his own or
7 has converted the money or property of others to his own use; or

8 ~~(p)~~ (q) Has engaged in any other conduct constituting a deceitful, fraudulent
9 or dishonest business practice.

10 3. An order that imposes discipline and the findings of fact and conclusions of
11 law supporting that order are public records.

12 **Sec. 28.** 1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and
13 26 of this act become effective upon passage and approval for the purpose of
14 adopting regulations and on January 1, 2010, for all other purposes.

15 2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on
16 July 1, 2009.

17 3. The provisions of sections 11 and 20 of this act expire by limitation on the
18 date on which the provisions of 42 U.S.C. § 666 requiring each state to establish
19 procedures under which the state has authority to withhold or suspend, or to restrict
20 the use of professional, occupational and recreational licenses of persons who:

21 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
22 to determine the paternity of a child or to establish or enforce an obligation for the
23 support of a child; or

24 (b) Are in arrears in the payment for the support of one or more children,
25 ➤ are repealed by the Congress of the United States.

26 4. Section 12 of this act becomes effective on the date on which the
27 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
28 which the state has authority to withhold or suspend, or to restrict the use of
29 professional, occupational and recreational licenses of persons who:

30 (a) Have failed to comply with a subpoena or warrant relating to a procedure to
31 determine the paternity of a child or to establish or enforce an obligation for the
32 support of a child; or

33 (b) Are in arrears in the payment for the support of one or more children,
34 ➤ are repealed by the Congress of the United States.