

CHAPTER 164
SB 153-FN – FINAL VERSION

03/16/11 0719s
4Jan2012... 2725h
7Mar2012... 0798h
05/23/12 2276EBA

2012 SESSION

11-0763
10/05

SENATE BILL ***153-FN***

AN ACT relative to the regulation of real estate appraisers by the New Hampshire real estate appraiser board.

SPONSORS: Sen. Gallus, Dist 1; Rep. Tholl, Coos 2

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill makes various changes to the regulation of real estate appraisers by the real estate appraiser board, including the registration of appraisal management companies and changes related to the federal Dodd-Frank Reform Act.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the regulation of real estate appraisers by the New Hampshire real estate appraiser board.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 164:1 Real Estate Appraisers; Definitions; Federal Financial Institutions Regulatory Agencies.

2 Amend RSA 310-B:2, X to read as follows:

3 X. “Federal financial institutions regulatory agencies” means the Board of Governors of the
4 Federal Reserve System, the Federal Deposit Insurance [~~Corporations~~] **Corporation**, the Office of
5 the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union
6 Administration.

7 164:2 New Paragraphs; Definitions. Amend RSA 310-B:2 by inserting after paragraph XV the
8 following new paragraphs:

9 XVI. “Appraisal” means the practice of developing an opinion of the value of real property in
10 conformance with the Uniform Standards for Professional Appraisal Practice as developed by the
11 Appraisal Foundation.

12 XVII. “Appraisal management company” means, in connection with valuing properties
13 collateralizing mortgage loans or mortgages incorporated into a securitization, any external third
14 party authorized either by a creditor of a consumer credit transaction secured by a consumer’s
15 principal dwelling or by an underwriter of, or other principal in, the secondary mortgage markets:

16 (a) To recruit, select, and retain appraisers;

17 (b) To contract with licensed and certified appraisers to perform appraisal assignments;

18 (c) To manage the process of having an appraisal performed, including providing
19 administrative duties such as receiving appraisal orders and appraisal reports, submitting
20 completed appraisal reports to creditors and underwriters, collecting fees from creditors and
21 underwriters for services provided, and reimbursing appraisers for services performed; or

22 (d) To review and verify the work of appraisers.

23 XVIII. “Appraisal review” means the act or process of developing and communicating an
24 opinion about the quality of another appraiser’s work that was performed as part of an appraisal
25 assignment, except that a quality control examination of an appraisal report shall not be an
26 appraisal review.

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1 XIX. “Appraiser” means an individual who holds a license or certification as an appraiser
2 and is expected to perform valuation services competently and in a manner that is independent,
3 impartial, and objective.

4 XX “Appraiser panel” means a group of licensed or certified independent appraisers that
5 have been selected to perform appraisal services for a third party.

6 XXI. “Controlling person” means:

7 (a) An officer director, or owner of greater than a 10 percent interest, of a corporation,
8 partnership or other business entity, seeking to act as an appraisal management company in this
9 state; or

10 (b) An individual employed, appointed, or authorized by an appraisal management
11 company that has the authority to enter into a contractual relationship with other persons for the
12 performance of services requiring registration as an appraisal management company and has the
13 authority to enter into agreements with appraisers for the performance of appraisals; or

14 (c) An individual who possesses, directly or indirectly, the power to direct or cause the
15 direction of the management or policies of an appraisal management company.

16 XXII. “Person” means an individual, firm, partnership, limited partnership, limited liability
17 company, association, corporation, or other group engaged in joint business activities, however
18 organized.

19 XXIII. “Quality control examination” means an examination of an appraisal report for
20 compliance and completeness including grammatical, typographical, or other similar errors.

21 XXIV. “Uniform Standards of Professional Appraisal Practice” (USPAP) means the current
22 standards of the appraisal profession, developed for appraisers and users of appraisal services by the
23 Appraisal Standards Board of the Appraisal Foundation.

24 164:3 Licensure, Certification Fees. Amend RSA 310-B:5, II to read as follows:

25 II. Appropriate fees, as fixed by the board under rules established pursuant to RSA 541-A, shall
26 accompany all applications for original license, certification, renewal license, renewal certification, [~~and
27 examination~~] ***reciprocal license, and reciprocal certification***. An annual federal registration fee
28 shall be collected by the board for transmittal to the federal government under Title XI.

29 164:4 Classes of Licensure or Certification. Amend RSA 310-B:6 to read as follows:

30 310-B:6 Classes of Licensure or Certification.

31 I. There shall be the following classifications of real estate appraisers which shall meet the
32 criteria as the board shall require by rules adopted under RSA 541-A:

33 (a) Apprentice. The apprentice real estate appraiser classification shall consist of those
34 persons who do not meet the requirements under subparagraph (b), (c), or (d), but are in the process
35 of completing the requirements for one of the classifications of a real estate appraiser. Apprentice
36 real estate appraisers shall be required to work under the supervision of a New Hampshire certified

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1 appraiser *who has been certified for at least 2 years*, until the requirements for licensure or
2 certification have been met.

3 (b) Licensed residential real estate appraiser.

4 (c) Certified residential real estate appraiser.

5 (d) Certified general real estate appraiser.

6 II. The application for original licensure or certification, or renewal licensure or
7 certification~~[, and examination]~~ shall specify the classification of licensure or certification being
8 applied for or previously granted.

9 164:5 Experience Requirements. Amend RSA 310-B:9 to read as follows:

10 310-B:9 Experience Requirements.

11 I. An applicant for original licensure or certification as a licensed or certified real estate
12 appraiser shall possess such experience as the board shall require by rules adopted under RSA 541-

13 A. Such rules shall be based upon the criteria established by the Appraisal [~~Subcommittee of the~~
14 ~~Federal Financial Institutions Examination Council~~] **Qualifications Board of the Appraisal**
15 **Foundation** at the time of the application.

16 II. Each applicant for license or certification shall furnish [~~under oath~~] a **signed**, detailed
17 listing of the real estate appraisal reports or file memoranda for each year for which experience is
18 claimed by the applicant. Upon request, the applicant shall make available to the board for
19 examination a sample of appraisal reports which the applicant has prepared in the course of his **or**
20 **her** appraisal practice.

21 164:6 Terms of Licensure and Certification. Amend RSA 310-B:10 to read as follows:

22 310-B:10 Term of Licensure or Certification. **All initial licenses or certificates issued by the**
23 **board shall expire on the last day of the month of the holder's birth in the year 2 years**
24 **following the year of issuance.** The **renewal** term of a license or certificate issued under the
25 authority of this chapter shall be 2 years from the date of issuance, **and shall expire on the last**
26 **day of the month of the license or certificate holder's birth.** The expiration date of the license
27 or certificate shall appear on the license or certificate and notice of its expiration shall be given to its
28 holder. [~~The board shall stagger the terms of licenses or certificates issued on or before January 1,~~
29 ~~2007, so that 1/2 of such licenses or certificates shall expire in one year and the remaining 1/2 shall~~
30 ~~expire the following year.]~~

31 164:7 New Sections; Registration of Appraisal Management Companies. Amend RSA 310-B by
32 inserting after section 12-a the following new sections:

33 310-B:12-b Registration of Appraisal Management Companies.

34 I. It is unlawful for a person to directly or indirectly engage in or attempt to engage in
35 business as an appraisal management company or to advertise or hold itself out as engaging in or
36 conducting business as an appraisal management company in this state without first obtaining a

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1 registration issued by the board under the provisions of this chapter.

2 (a) An applicant for registration as an appraisal management company in this state
3 shall submit to the board an application on a form or forms prescribed by the board.

4 (b) In the event a registration process is unavailable upon the effective date of this
5 chapter, an appraisal management company already conducting business in this state may continue
6 to conduct business in accordance with this chapter until the 120th day after a registration process
7 becomes available.

8 II. An application for the registration required by paragraph I of this section shall include
9 the following information:

10 (a) Name of the person seeking registration and the fictitious name or names (if any)
11 under which it does business in any state;

12 (b) Business address of the person seeking registration;

13 (c) Phone contact information of the person seeking registration;

14 (d) If the person is not a corporation that is domiciled in this state, the name and contact
15 information for the company's agent for service of process in this state;

16 (e) The name, address, and contact information for any individual or any corporation,
17 partnership, or other business entity that owns 10 percent or more of the appraisal management
18 company;

19 (f) The name, address, and contact information for one controlling person designated as
20 the main contact for all communication between the appraisal management company and the board;

21 (g) A certification that the person has a system and process in place to verify that an
22 individual being added to the appraiser panel of the appraisal management company holds a license
23 in good standing in this state under this chapter if a license or certification is required to perform
24 appraisals;

25 (h) A certification that the person requires appraisers completing appraisals at its
26 request to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) including
27 the requirements for geographic and product competence;

28 (i) A certification that the person has a system in place to verify that only licensed or
29 certified appraisers are used for federally related transactions;

30 (j) A certification that the person has a system in place to require that appraisals are
31 conducted independently and free from inappropriate influence and coercion as required by the
32 appraisal independence standards established under section 129E of the Truth in Lending Act,
33 including the requirement that fee appraisers be compensated at a customary and reasonable rate
34 when the appraisal management company is providing services for a consumer credit transaction
35 secured by the principal dwelling of a consumer;

36 (k) A certification that the person maintains a detailed record of each service request

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1 that it receives and the appraiser that performs the residential real estate appraisal services for the
2 appraisal management company;

3 (l) An irrevocable uniform consent to service of process, pursuant to RSA 310-B:12-d;

4 (m) Any other information required by the board which is reasonably necessary to
5 implement this chapter.

6 III. An application for the renewal of a registration shall include substantially similar
7 information required for the initial registration as noted in paragraph II, as determined by the
8 board.

9 IV. A registration granted by the board pursuant to this chapter shall be valid for one year
10 from the date on which it is issued.

11 310-B:12-c Appraisal Management Company Exemptions.

12 I. The provisions of this chapter shall not apply to an appraisal management company that
13 is a subsidiary owned and controlled by a financial institution regulated by a federal financial
14 institutions regulatory agency.

15 II. The provisions of this chapter shall not apply to a business entity that exclusively
16 engages real estate appraisers on an employer and employee basis or on a subcontractor basis for the
17 performance of all real property appraisal services in the normal course of its business, except to the
18 extent federal law or regulation requires such entities to register with and be subject to supervision
19 by a state appraiser certifying and licensing agency.

20 310-B:12-d Appraisal Management Company Consent to Service of Process. Each person
21 applying for a registration as an appraisal management company that is not domiciled in this state
22 shall complete an irrevocable uniform consent to service of process, as prescribed by the board.

23 310-B:12-e Appraisal Management Company Fee.

24 I. The board shall establish by rule or regulation a processing fee to be paid by each
25 appraisal management company seeking registration under this chapter that is sufficient for the
26 administration of the registration process.

27 II. A similar processing fee may be charged by the board in connection with the renewal of
28 any registrations.

29 310-B:12-f Appraisal Management Company Owner Requirements.

30 I. An appraisal management company applying for registration in this state shall not:

31 (a) Be owned by any person who has had an appraiser license or certificate in this state
32 or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked, unless
33 such license or certificate was subsequently granted or reinstated;

34 (b) Be more than 10 percent owned by a person who is not of good moral character,
35 which for purposes of this section shall require that such person has not been convicted of, or entered
36 a plea of nolo contendere to, a felony relating to the practice of appraisal, banking, mortgage lending

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1 or the provision of financial services, or any crime involving fraud, misrepresentation or moral
2 turpitude.

3 II. For purposes of subparagraph I(b), each owner of more than 10 percent of an appraisal
4 management company shall submit to a background investigation to be carried out by a law
5 enforcement agency or other entity authorized by the board.

6 310-B:12-g Appraisal Management Company Designated Contact. Each appraisal management
7 company applying to the board for registration in this state shall designate one controlling person
8 who is an employee of the appraisal management company that will be the designated contact for all
9 communication between the board and the appraisal management company.

10 310-B:12-h Appraisal Management Company Appraiser Credentials.

11 I. An appraisal management company that applies to the board for a registration to do
12 business in this state as an appraisal management company shall not:

13 (a) Knowingly employ any individual to perform appraisal services, who has had a
14 license or certificate to act as an appraiser in this state or in any other state, refused, denied,
15 cancelled, surrendered in lieu of revocation, or revoked, unless such license or certificate was
16 subsequently granted or reinstated;

17 (b) Knowingly enter into any independent contractor arrangement for the performance
18 of appraisal services, in verbal, written, or other form, with any individual who has had a license or
19 certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled,
20 surrendered in lieu of revocation, or revoked, unless such license or certificate was subsequently
21 granted or reinstated.

22 II. Prior to assigning appraisal orders, an appraisal management company shall have a
23 system in place to verify that a person being added to the appraiser panel holds the appropriate
24 appraiser credential in good standing.

25 III. Each appraisal management company seeking to be registered in this state shall certify
26 to the board on an annual basis on a form prescribed by the board that the appraisal management
27 company has systems in place to verify that:

28 (a) An individual on the appraiser panel has not had a license or certification as an
29 appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation in the
30 previous 12 months, unless such license or certificate was subsequently granted or reinstated; and

31 (b) Only licensed or certified appraisers are used to complete appraisal assignments in
32 connection with federally related transactions.

33 310-B:12-i Appraisal Management Company; Appraisal Review. Any employee of, or
34 independent contractor to, an appraisal management company that performs a USPAP Standard 3
35 review of an appraisal report on property located in this state shall be an appraiser with the proper
36 level of licensure issued by the board. Quality control examinations are exempt from this

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1 requirement as they are not considered a Standard 3 review.

2 310-B:12-j Appraisal Management Company; Adherence to Standards.

3 I. Each appraisal management company seeking to be registered in this state shall certify to
4 the board on an annual basis that it requires appraisers completing appraisals at its request to
5 comply with the Uniform Standards of Professional Appraisal Practice including the requirements
6 for geographic and product competence.

7 II. Each appraisal management company seeking to be registered in this state shall certify
8 to the board on an annual basis that it has a system in place to require that appraisals are conducted
9 independently and free from inappropriate influence and coercion as required by the appraisal
10 independence standards established under section 129E of the Truth in Lending Act, including the
11 requirement that fee appraisers be compensated at a customary and reasonable rate when the
12 appraisal management company is providing services for a consumer credit transaction secured by
13 the principal dwelling of a consumer.

14 III. An appraisal management company shall not prohibit an appraiser from reporting the
15 fee paid to the appraiser in the body of the appraisal report, however an appraisal management
16 company may require an appraiser to present any such disclosure in a specified format and location.

17 310-B:12-k Appraisal Management Company; Recordkeeping. Each appraisal management
18 company seeking to be registered in this state shall certify to the board on an annual basis that it
19 maintains a detailed record of each service request that it receives and the appraiser that performs
20 the appraisal for the appraisal management company. Such records must be retained for a period of
21 at least 5 years after an appraisal is completed or 2 years after final disposition of a judicial
22 proceeding related to the assignment, whichever period expires later.

23 310-B:12-l Appraisal Management Company; Appraisal Reports.

24 I. An appraisal management company may not alter, modify, or otherwise change a
25 completed appraisal report submitted by an appraiser without the appraiser's written consent,
26 except as necessary to comply with regulatory mandates or legal requirements.

27 II. An appraisal management company may not use an appraisal report submitted by an
28 independent appraiser, or any of the data or information contained therein, for any purpose other
29 than its intended use without the appraiser's or the intended end user's written consent.

30 310-B:12-m Appraisal Management Company; Registration Number.

31 I. The board shall issue a unique registration number to each appraisal management
32 company registered in this state pursuant to this chapter.

33 II. The board shall maintain a list of the appraisal management companies registered in this
34 state and the registration numbers assigned to such persons.

35 III. An appraisal management company registered in this state shall disclose the
36 registration number provided to it by the board on the engagement documents presented to an

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1 appraiser.

2 310-B:12-n Appraisal Management Company; Unlawful Acts.

3 I. It shall be a violation of this chapter for any employee, partner, director, officer, or agent
4 of an appraisal management company to:

5 (a) Influence or attempt to influence the development, reporting, result, or review of an
6 appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or
7 in any other manner, including but not limited to:

8 (1) Withholding or threatening to withhold timely payment or partial payment for an
9 appraisal with the exception of a substandard or noncompliant appraisal;

10 (2) Withholding or threatening to withhold future business from an appraiser, or
11 demoting, terminating or threatening to demote or terminate an appraiser;

12 (3) Promising or implying that an appraiser may be given opportunities for future
13 business, promotions, or increased compensation;

14 (4) Conditioning an assignment of an appraisal or the payment of an appraisal fee or
15 salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate
16 or opinion requested from an appraiser;

17 (5) Requesting that an appraiser provide an estimated, predetermined, or desired
18 valuation in an appraisal, or provide estimated values or comparable sales at any time prior to the
19 appraiser's completion of an appraisal;

20 (6) Providing to an appraiser an anticipated, estimated, encouraged, or desired value
21 for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy
22 of the sales contract for purchase transactions may be provided; and

23 (7) Requiring an appraiser to prepare an appraisal report if the appraiser has
24 indicated to the appraisal management company that he or she does not have the necessary
25 expertise for the specific geographic area;

26 (b) Require an appraiser to indemnify the appraisal management company against
27 liability, damages, losses, or claims other than those liabilities, damages, losses or claims arising out
28 of the services performed by the appraiser, including performance or non-performance of the
29 appraiser's duties and obligations, whether as a result of negligence or willful misconduct;

30 (c) Submit or attempt to submit false, misleading, or inaccurate information in any
31 application for registration or renewal;

32 (d) Fail to timely respond to any subpoena or any other legally-binding request for
33 information;

34 (e) Fail to timely obey a lawful administrative order of the board; or

35 (f) Fail to fully cooperate in any board investigation.

36 II. Notwithstanding any other provision in this chapter, an appraisal management company

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1 shall not be prohibited from requesting that an appraiser:

- 2 (a) Consider additional appropriate property information;
- 3 (b) Provide additional information concerning the basis for an evaluation; or
- 4 (c) Correct objective factual errors in an appraisal report.

5 310-B:12-o Appraisal Management Company; Mandatory Reporting. An appraisal management
6 company that has a reasonable basis to believe an appraiser has failed to comply with applicable
7 laws, the Uniform Standards of Professional Appraisal Practice or other ethical or professional
8 requirements in connection with a consumer credit transaction secured by a consumer's principal
9 dwelling, shall refer the matter to the board if the failure to comply is material. For purposes of this
10 section, a failure to comply is material if it is likely to significantly affect the value assigned to the
11 consumer's principal dwelling.

12 164:8 Lapsed Licenses. Amend RSA 310-B:13-a, IV to read as follows:

13 IV. The rights of the licensee under such expired or lapsed license shall be terminated. It
14 shall be unlawful to act or attempt or offer to act in any matter as a real estate appraiser apprentice
15 **completing the requirements for licensure or certification**, or **as a** licensed or certified
16 appraiser, under an expired or lapsed license.

17 164:9 Continuing Education; Criteria. Amend RSA 310-B:14, II to read as follows:

18 II. The basic continuing education requirement for renewal of licensure or certification shall
19 be the completion by the applicant, during the immediately preceding term of licensure or
20 certification, of those courses and programs required by the board by rules adopted under RSA 541-
21 A. In adopting such rules, the board shall base its requirements on the criteria established by the
22 Appraisal [~~Subcommittee of the Federal Financial Institutions Examination Council~~]
23 **Qualifications Board of the Appraisal Foundation**.

24 164:10 Notification; Electronic Address. Amend RSA 310-B:15, III to read as follows:

25 III. Every licensed or certified real estate appraiser shall notify the board of his **or her**
26 current residence address **and electronic address**. Residence addresses **and electronic**
27 **addresses** on file with the board are exempt from disclosure as public records.

28 164:11 New Section; Appraisal Management Companies; Registration; Requirements. Amend
29 RSA 310-B by inserting after section 16 the following new section:

30 310-B:16-a Appraisal Management Companies.

31 I. The board shall adopt rules under RSA 541-A which shall establish minimum
32 requirements for the annual registration of appraisal management companies. Such minimum
33 requirements shall include that such companies:

- 34 (a) Register with the board by each January 1 and be subject to supervision by the
35 New Hampshire real estate appraiser board;
- 36 (b) Verify that only licensed or certified appraisers are used for federally related

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1 transactions;

2 (c) Comply with the Uniform Standards of Professional Appraisal Practice in
3 coordinating appraisals ; and

4 (d) Conduct appraisals independently and free from inappropriate influence and
5 coercion pursuant to the appraisal independence standards established under section 129E of the
6 federal Truth in Lending Act.

7 II. An appraisal management company shall not be registered by the board or included on
8 the national registry if such company, in whole or in part, directly or indirectly, is owned by any
9 person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu
10 of revocation, or revoked in any state. Additionally, each person that owns more than 10 percent of
11 an appraisal management company shall be of good moral character, as determined by the board,
12 and shall submit to a background investigation carried out by the board.

13 III. The board shall adhere to regulations for the reporting of the activities of appraisal
14 management companies to the Appraisal Subcommittee in determining the payment of the annual
15 registry fee.

16 IV. The requirements of this section shall take effect to appraisal management companies
17 beginning the later of:

18 (a) January 1, 2013; or

19 (b) 120 days after the first date on which all rules, forms and policies necessary to
20 implement this chapter have been finalized and made available by the board. No unregistered
21 appraisal management company may perform services related to a federally related transaction in
22 the New Hampshire after January 1, 2013.

23 164:12 Disciplinary Proceedings. RSA 310-B:18 is repealed and reenacted to read as follows:

24 310-B:18 Disciplinary Proceedings.

25 I. The board may undertake disciplinary proceedings:

26 (a) Upon its own initiative; or

27 (b) Upon written complaint of any person which charges that a person licensed or
28 certified by the board has committed misconduct under paragraph II and which specifies the grounds
29 therefor.

30 II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

31 (a) Procuring or attempting to procure a license or certificate pursuant to this chapter by
32 knowingly making a false statement, submitting false information, refusing to provide complete
33 information in response to a question in an application for license or certification or through any
34 form of fraud or misrepresentation.

35 (b) Failing to meet the minimum qualifications established by this chapter.

36 (c) Paying compensation, including money or any other thing of value, other than as

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1 provided for by this chapter, to any member of or employee of the board to procure a license or
2 certificate under this chapter.

3 (d) A conviction of a crime which is substantially related to the qualifications, functions,
4 and duties of a person developing real estate appraisals and communicating real estate appraisals to
5 others.

6 (e) An act or omission involving dishonesty, fraud, or misrepresentation with the intent
7 to substantially benefit the license or certificate holder or another person or with the intent to
8 substantially injure another person.

9 (f) Violation of any of the standards for the development or communication of real estate
10 appraisals as provided in this chapter.

11 (g) Failure or refusal without good cause to exercise reasonable diligence in developing
12 an appraisal, preparing an appraisal report or communicating an appraisal.

13 (h) Negligence or incompetence in developing an appraisal, in preparing an appraisal
14 report, or in communicating an appraisal, as determined by the board.

15 (i) Disregarding or violating any of the provisions of this chapter or the rules adopted by
16 the board for the administration and enforcement of this chapter.

17 (j) Accepting an appraisal assignment when the employment itself is contingent upon
18 the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is
19 contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting
20 from the appraisal assignment.

21 (k) Violating the confidential nature of governmental records to which he or she gained
22 access through employment or engagement as an appraiser by a governmental agency.

23 III. The board, upon making an affirmative finding under paragraph II, may take
24 disciplinary action in any one or more of the following ways:

25 (a) By written reprimand.

26 (b) By suspension, refusal to renew, limitation or restriction of a license or certification,
27 or probation for a period of time determined to be reasonable by the board.

28 (c) By revocation of a license or certificate.

29 (d) By requiring the person to participate in a program of continuing education in the
30 area or areas in which the person has been found deficient.

31 (e) By requiring the person to practice under the direct supervision of a licensed
32 appraiser for a period of time specified by the board.

33 (f) By assessing a fine of not more than \$2,000 per violation or, in the case of a
34 continuing violation, \$100 for each day the violation continues, whichever would be greater.

35 (g) By taking any combination of the preceding actions, relating to any real estate
36 appraiser, in accordance with the provisions of this chapter.

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1 IV. The board may dismiss a complaint if the investigation shows the allegations to be
2 without basis in law or fact or if the undisputed allegations do not warrant disciplinary proceedings.

3 164:13 New Section; Reissuance of License or Certification. Amend RSA 310-B by inserting
4 after section 18-a the following new section:

5 310-B:18-b Reissuance of License or Certification. The board, for reasons it deems sufficient,
6 may reissue a license or certification to any person whose license or certification has been suspended
7 or revoked, provided 4 or more members of the board vote in favor of such reissuance. A new license
8 or certification may be issued, subject to the rules of the board, and a fee shall be assessed for such
9 issuance.

10 164:14 Hearings. Amend RSA 310-B:19 to read as follows:

11 310-B:19 Hearings; *Investigations.* ***The board may undertake investigations of***
12 ***allegations of misconduct. The form of an investigation is a matter of discretion of the***
13 ***board.*** The board shall take no disciplinary action without a hearing. At least 14 days prior to
14 hearing, all parties to a disciplinary proceeding shall be served, either personally or by certified mail,
15 return receipt requested, with a written copy of the complaint filed and notice of the time and place
16 for hearing. All complaints shall be objectively received and fairly heard by the board, but no
17 complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints
18 [~~received~~] ***not dismissed*** by the board within [99] ***180*** days after the date notice of a complaint was
19 received by the accused, unless otherwise agreed to by the parties. Disciplinary hearings shall be
20 conducted within [99] ***180*** days of receipt of the complaint before at least [5] ***4*** members of the board.
21 Written notice of all disciplinary decisions made by the board shall be given to all parties to the
22 proceeding upon their issuance. Orders of the board shall be subject to the contested case provisions
23 of RSA 541-A.

24 164:15 Fees. Amend RSA 310-B:20 to read as follows:

25 310-B:20 Fees. The board shall establish fees for application, [~~for examination of applicants,~~] for
26 apprentices, and renewals of apprentice status for licensure or certification, for renewal of licensure or
27 certification under this chapter, ***for registration and renewal of registration of appraisal***
28 ***management companies,*** and for transcribing and transferring records and other services. The fees
29 established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the
30 direct operating expenses of the board for the previous fiscal year, and sufficient to provide for periodic
31 payments to reimburse the general fund for money appropriated for the purposes of this chapter.

32 164:16 Receipts and Disbursements. Amend RSA 310-B:21 to read as follows:

33 310-B:21 Receipts and Disbursements.

34 I. [~~There shall be a~~] ***The*** board [~~secretary who~~] shall receive and account for all moneys
35 derived under the provisions of this chapter. At least monthly, the receipts shall be turned over to
36 the state treasurer, who shall keep such moneys in a separate fund to be known as the real estate

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1 appraisers fund. Such fund shall be kept separate and apart from all moneys in the treasury, and
2 shall be disbursed only for purposes of this chapter. Under no circumstances shall the total amount
3 of payments exceed the fees collected under this chapter.

4 I-a. All moneys collected as administrative penalties through enforcement actions or
5 settlements under this chapter shall be credited to the real estate appraisers fund and disbursed by
6 the board for the investigation of complaints and activities that violate this chapter or rules adopted
7 by the board.

8 II. The board shall reimburse the general fund for moneys appropriated for the purposes of
9 this chapter as soon as such funds are available. ~~[A schedule for making periodic payments for~~
10 ~~reimbursement of advanced funds shall be acted upon at the board's first meeting.]~~

11 III. Revenues in excess of budget estimates may be expended with the prior approval of the
12 legislative fiscal committee and the governor and council.

13 164:17 Roster. Amend RSA 310-B:22 to read as follows:

14 310-B:22 Roster. A roster showing the names, classification and place of business of all real
15 estate appraisers licensed or certified under this chapter, who have paid their annual federal
16 registry fee to the board, shall be submitted annually with the moneys collected to the federal
17 Appraisal Subcommittee. A copy of the roster shall be ~~[placed on file with the secretary of state]~~
18 ***furnished upon request at a fee established by the board which reflects the direct and***
19 ***incidental costs of making copies.***

20 164:18 Investigations. Amend RSA 310-B:23-a, I to read as follows:

21 I. The board shall have the power to administer oaths or affirmations, preserve testimony,
22 subpoena witnesses, and to compel, by subpoena duces tecum, the production of all books, records,
23 files and documents, whether originals, copies, or in electronic or other form, and other materials,
24 relevant to its investigation of any ~~[grievance,] complaint[.]~~ or disciplinary proceeding before the
25 board.

26 164:19 Rulemaking; Appraisal Management Companies Added. Amend RSA 310-B:24 to read
27 as follows:

28 310-B:24 Rulemaking Authority. The board shall adopt rules pursuant to RSA 541-A, relative
29 to:

30 I. The application procedure ***and eligibility requirements for the issuance of any initial***
31 ***license or certificate issued under this chapter, including the issuance of such licenses to***
32 ***applicants holding a currently valid license or other authorization to practice in another***
33 ***jurisdiction.***

34 ***I-a. The application procedure and eligibility requirements for the issuance of any***
35 ***temporary practice permit issued under this chapter.***

36 II. Design and content of all forms required under this chapter.

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1 III. How an applicant shall be examined.

2 IV. How a license or certificate shall be renewed.

3 V. Ethical standards required to be met by each holder of a license or certificate issued
4 under this chapter and how such license or certificate may be revoked for violation of these
5 standards.

6 VI. Establishing all fees required under this chapter, subject to RSA 332-G.

7 VII. Standards for appraisal education programs and the issuance of evidence indicating
8 satisfactory completion of such program.

9 ***VII-a. The registration and supervision of appraisal management companies under***
10 ***RSA 310-B:16-a, including the establishment of fees for annual registration and for***
11 ***renewal of registration.***

12 ***VIII. The conduct of investigations and*** procedures for the conduct of hearings consistent
13 with the requirements of RSA 541-A.

14 ***VIII-a.*** Establishing continuing education and experience requirements which comport with
15 criteria set forth by the board.

16 IX. [~~The procedure of any other matter related to the proper administration of this chapter.~~]
17 ***The requirements for public requests for information.***

18 ***X. The conditions and requirements for granting a waiver to any rule adopted by***
19 ***the board.***

20 164:20 Repeal. The following are repealed:

21 I. RSA 310-B:17-a, relative to grievances.

22 II. RSA 310-B:17-b, relative to complaints.

23 164:21 Effective Date. This act shall take effect 60 days after its passage.

24

25 Approved: June 7, 2012

26 Effective Date: August 6, 2012