

AN ACT Relating to the licensing ~~registration~~ of appraisal management companies; adding a new chapter to Title 18 RCW; creating new sections; and providing effective dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec 1. Intent. It is the intent of the legislature that only companies which meet and maintain minimum standards of competence and conduct may provide appraisal management services.

NEW SECTION. Sec 2. Short title. This chapter may be known and cited as the ~~appraisal management company act.~~ Appraisal Management Company Act.

NEW SECTION. Sec 3. Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Appraisal" means the practice of developing an opinion of value of real property in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) as developed by the Appraisal Foundation, or any other definition utilized within state or federal government regulations.
- (2) "Appraisal Management Company ~~management company~~" means an entity that directly or indirectly performs appraisal management services, regardless of the use of the term appraisal management company, mortgage technology provider, lender processing services, lender services, loan processor, mortgage services, real estate closing services provider, settlement services provider, vendor management company or any other term.
- (3) "Appraisal management services" means to, directly or indirectly, perform any or all of the following functions on behalf of a lender, financial institution, mortgage broker, loan originator or any other person:
 - (a) Administer an appraiser panel;
 - (b) To recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
 - (c) Receive an order for an appraisal from one person, or entity, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
 - (d) Track and determine the status of appraisal orders; ~~orders for appraisals;~~
 - (e) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and
 - (f) Provide a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal.
- (4) "Appraiser" means a person who holds a license or certification to complete an appraisal in the state where the real property that is the subject of the appraisal is located.

- 38 (5) "Appraiser fee schedule" means a list of the various appraisal products requested by an
39 appraisal management company in this state from appraisers and the fees ~~amount~~ that the
40 appraisal management company is willing to pay an appraiser for the performance of the
41 appraisals.
- 42 (6) "Appraiser panel" means a network of licensed or certified appraisers who are independent
43 contractors of an appraisal management company that have:
- 44 (a) Responded to an invitation, request, or solicitation from an appraisal management company,
45 in any form, to perform appraisals for persons, or entities, that have ordered appraisals
46 through the appraisal management company, or to perform appraisals for the appraisal
47 management company directly, on a periodic basis, as assigned by the appraisal management
48 company; and
- 49 (b) Been selected, and approved, by an appraisal management company to perform appraisals
50 for a person, or entity, that has ordered an appraisal through the appraisal management
51 company, or to perform appraisals for the appraisal management company directly, on a
52 periodic basis, as assigned by the appraisal management company.
- 53 (7) "Department" means **the department of licensing.**
- 54 (8) "Controlling person" means: **any person who controls, directly or indirectly through one or**
55 **more intermediaries, alone or in concert with others, a ten percent or greater interest in a**
56 **partnership; company; association or corporation; or a limited liability company, and the**
57 **owner of a sole proprietorship.**
- 58 (a) An owner, officer or director of a corporation, partnership or other business entity seeking to
59 offer appraisal management services in this state; or
- 60 (b) An individual employed, appointed, or authorized by an appraisal management company that
61 has the authority to enter into a contractual relationship with other persons for the
62 performance of appraisal management services and has the authority to enter into agreements
63 with appraisers for the performance of appraisals; or
- 64 (c) An individual who possesses, directly or indirectly, the power to direct or cause the direction
65 of the management or policies of an appraisal management company.

66 NEW SECTION. Sec 4. Powers and duties of director. The director shall have the following
67 powers and duties:

- 68 (1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter
69 and chapter 18.235 RCW.
- 70 (2) To receive and approve or deny applications for licensure ~~registration~~ as an appraisal
71 management company under this chapter; to establish appropriate administrative procedures
72 for the processing of such applications; to issue licenses ~~registrations~~ to qualified companies
73 pursuant to the provisions of this chapter; and to maintain a roster of the names and addresses
74 of companies licensed ~~registered~~ under this chapter.
- 75 (3) To employ such professional, clerical, and technical assistance as may be necessary to
76 properly administer the work of the director;
- 77 (4) To establish forms necessary to administer this chapter;

- 78 (5) To oversee the performance of background checks
79 (6) To initiate and oversee investigations
80 (7) To establish grounds for disciplinary actions
81 (8) To establish by rule, fees necessary to administer this chapter; and
82 (9) To do all other things necessary to carry out the provisions of this chapter and minimally
83 meet the requirements of federal and other guidelines regarding appraisal management
84 companies.

85 NEW SECTION. Sec 5. Immunity. The director or individuals acting on behalf of the director
86 are immune from suit in any action, civil or criminal, based on any acts performed in the course
87 of their duties except for their intentional or willful misconduct.

88 NEW SECTION. Sec 6. Applications – Original and renewal registration.

- 89 (1) Applications for licensure registration shall be made in writing to the department on forms
90 approved by the director. Applications for original and renewal licenses ~~registration~~ shall
91 include a statement confirming that the company shall comply with applicable rules and
92 regulations and that the company understands the penalties for misconduct.
93 (2) The appropriate fees shall accompany all applications for original licensure ~~registration~~ and
94 renewal registration.

95 NEW SECTION. Sec 7. Out of state companies – Consent for service of process. Every
96 company seeking licensure ~~registration~~ whose headquarters is not based in the State of
97 Washington ~~is state~~ shall submit, with the application for licensure ~~registration~~ an irrevocable
98 consent that service of process upon the controlling person(s) may be made by service on the
99 director if, in an action against the entity in a court of this state arising out of the entity's activities
100 as an appraisal management company, the plaintiff cannot, in the exercise of due diligence, obtain
101 personal service upon the company. It shall be the responsibility of the Licensed Appraisal
102 Management Company to immediately notify, within fourteen (14) days, in writing, any change
103 of address, telephone number, and/or any other pertinent contact information necessary for
104 personal service.

105 NEW SECTION. Sec 8. Registration – Required use of number.

- 106 (1) A license ~~registration~~ issued under this chapter shall bear the signature or facsimile signature
107 of the director and a registration number assigned by the director.
108 (2) Each licensed ~~registered~~ appraisal management company shall place its unique license
109 ~~registration~~ number on any engagement document issued, including but not limited to
110 requests for bids, requests for appraiser availability, fax orders, e-mail orders and letters.
111 (3) An appraisal management company licensed ~~registered~~ in this state shall disclose the license
112 ~~registration~~ number provided to it by the department on all print and electronic advertising,
113 including any electronic advertising or communication via the Internet.
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115 NEW SECTION. Sec 9. Licensure ~~Registration~~ required.

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- (1) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license ~~registration~~ issued by the department under the provisions of this chapter.
- (2) The license ~~registration~~ required by subsection (1) of this section shall, at a minimum, include the following information:
 - (a) Name of the entity seeking licensure ~~registration~~;
 - ~~(b)~~ Business address of the entity seeking licensure ~~registration~~;
 - ~~(c)~~ Phone contact information of the entity seeking licensure ~~registration~~;
 - (d) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;
 - (e) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns 10% or more of the appraisal management company;
 - (f) The name, address, and contact information for a controlling person, as defined herein;
 - (g) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license or certification in good standing in this state pursuant to RCW 18.140, of a license or certification is required to perform appraisals, pursuant to Section 14 of this chapter;
 - (h) A certification that the entity has a system in place to review the work of all appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice, pursuant to Section 15 of this chapter;
 - (i) A certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the residential real estate appraisal services for the appraisal management company, pursuant to Section 16 of this chapter;
 - (j) A certification that the entity maintains a complete copy of the completed appraisal report performed as a part of any request, for a minimum period of five (5) years, and that said appraisals shall be available to the Department upon request.
 - (k) An irrevocable Uniform Consent to Service of Process, pursuant to Section 7 of this chapter; and,
 - (l) Any other information required by the department.

151 NEW SECTION. Sec 10. Owner requirements.

- (1) An appraisal management company applying for a registration in this state shall not be more than 10% owned by:
 - (a) A person who has had a license or ~~of~~ certificate to act as an appraiser refused, denied, canceled, or revoked in any state; or

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- 156 (b) An entity that is more than 10% owned by any person who has had a license or certificate to
157 act as an appraiser refused, denied, canceled, or revoked in any state.
- 158 (2) Each person that owns more than 10% of an appraisal management company in this state
159 shall:
- 160 (a) Be of good moral character, as determined by the department; and
161 (b) Submit to a background investigation, as determined by the department.
162 (c) Each appraisal management company applying for a license ~~registration~~ in this state shall
163 certify to the Department that it has reviewed each, and every, individual or entity that owns
164 more than 10% of the appraisal management company and that no entity that owns more than
165 10% of the appraisal management company is more than 10% owned by any person that has
166 had a license or certificate to act as an appraiser refused, denied, canceled, or revoked.

167 NEW SECTION. Sec 11. Controlling person requirements.

- 168 (1) Each appraisal management company applying to the department for a license ~~registration~~ in
169 this state shall designate one controlling person that will be the main contact for all
170 communication between the department and the appraisal management company.
- 171 (2) The controlling person designated pursuant to subsection (1) of this section shall:
172 (a) Hold a ~~license or~~ certificate to act as an appraiser in at least one state;
173 (b) Have never had a license or certificate to act as an appraiser surrendered in lieu of
174 disciplinary action, refused, denied, canceled, or revoked in any state;
175 (c) Be of good moral character, as determined by the department; and
176 (d) Submit to a background investigation, as determined by the department.

177 NEW SECTION. Sec 12. Employee requirements.

- 178 (1) An appraisal management company that applies to the department for a license ~~registration~~
179 to do business in this state shall not employ in any capacity:
- 180 (a) ~~Employ~~, any person who has ever had a license or certificate to act as an appraiser in this
181 state, or in any other state, surrendered in lieu of disciplinary action, refused, denied,
182 cancelled, or revoked;
- 183 (b) any person who is currently suspended, debarred, under a limited denial of participation
184 (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2
185 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations
186 to such parts, or under similar provisions of any other Federal agency;
- 187 (c) any person who is under indictment for, or has been convicted of, an offense that reflects
188 adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an
189 approved mortgagee;
- 190 (d) any person who is subject to unresolved findings contained in a Department of Housing and
191 Urban Development or other governmental audit, investigation, or review;

193 (e) any person who is engaged in business practices that do not conform to generally accepted
194 practices of prudent mortgagees or that demonstrate irresponsibility;

195 (f) any person who has been convicted of, or who has pled guilty or nolo contendere to, a felony
196 related to participation in the real estate or mortgage loan industry—

197 (i) during the 7-year period preceding the date of the application for licensing and
198 registration; or

199 (ii) at any time preceding such date of application, if such felony involved an act of fraud,
200 dishonesty, or a breach of trust, or money laundering;

201 (g) any person who is in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008
202 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

203 (h) any person who is in violation of any other requirement as established by the Secretary.

204 (i) Enter into any independent contractor arrangement, whether in verbal, written, or other form,
205 with any person who has ever had a license or certificate to act as an appraiser in this state, or in
206 any other state, surrendered in lieu of disciplinary action, refused, denied, cancelled, or revoked;
207 and

208 (j) Enter into any contract, agreement, or other business relationship, whether in verbal, written,
209 or other form, with any entity that employs, has entered into an independent contractor
210 arrangement, or has entered into any contract, agreement, or other business relationship, whether
211 in verbal, written, or any other form, with any person who has ever had a license or certificate to
212 act as an appraiser in this state or in any other state, ever had a license or certificate to act as an
213 appraiser in this state, surrendered in lieu of disciplinary action, refused, denied, cancelled, or
214 revoked.

215 (2) Any employee of the appraisal management company, or any contractor working in any
216 capacity on behalf of the appraisal management company, that has any involvement in the
217 ordering of appraisal services, actual performance of appraisal services, or review and
218 analysis of completed appraisals shall be a state licensed or state certified appraiser in the
219 state in which the property is located. ~~activity is being performed.~~

220 NEW SECTION. Sec 13. Exemptions. The provisions of this chapter do not apply to the
221 following:

222 (1) A person that exclusively employs persons on an employer and employee basis for the
223 performance of appraisals, and the employer is responsible for ensuring that the appraisals are
224 performed by employees in accordance with the Uniform Standards of Professional Appraisal
225 Practice (USPAP);

226 (2) A department or unit within a financial institution that is subject to direct regulation by an
227 agency of the United States Government, or to regulation by an agency of this State, that
228 receives a request for the performance an appraisal from one employee of the financial
229 institution, and another employee of the same financial institution assigns the request for the

230 appraisal to an appraisers that is part of an appraiser panel, ~~except that an appraisal~~
231 ~~management company that is a wholly owned subsidiary of a financial institution shall not be~~
232 ~~considered a department or unit within a financial institution to which the provisions of this~~
233 ~~chapter do not apply;~~

- 234 (3) An appraiser ~~person~~ that enters into an agreement, whether written or otherwise, with
235 another appraiser for the performance of an appraisal, and upon completion of the appraisal,
236 the report of the appraiser performing the appraisal is signed by both the appraiser who
237 completed the appraisal and the appraiser who requested the completion of the appraisal;

238 ~~(4) An appraisal management company that orders no more than ten (10) appraisals in a calendar~~
239 ~~year; or~~

240 ~~(5) An appraisal management company that maintains an appraiser panel that consists of fifteen~~
241 ~~(15) or fewer appraisers.~~

242 NEW SECTION. Sec 14. Recordkeeping. Each appraisal management company seeking to be
243 licensed ~~registered~~ in this state shall certify to the department on an annual basis that it maintains
244 a detailed record of each service request that it receives and the appraiser that performs the
245 appraisal for the appraisal management company. This statement shall also certify that the
246 Appraisal Management Company maintains a complete copy of the completed appraisal report
247 performed as a part of any request, for a minimum period of five (5) years, and that said
248 appraisals shall be available to the Department upon request.

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251 NEW SECTION. ~~Sec 15. Annual audit.~~

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253 ~~(1) Each appraisal management company registered in this state shall have an audit of the~~
254 ~~appraisals received by the appraisal management company from appraiser performed at least~~
255 ~~once annually to ensure that the appraisals being received by the appraisal management~~
256 ~~company are being performed in accordance with the Uniform Standards of Professional~~
257 ~~Appraisal Practice.~~

258 ~~(2) The audit required by subsection (a) of this section shall consist of, at a minimum but not~~
259 ~~limited to, a quality control test, by use of retroactive reports or additional appraisal reports or~~
260 ~~other appropriate methods, of a randomly selected 10 percent (or other bona fide statistically~~
261 ~~significant percentage) of the appraisals received by the appraisal management company.~~

262 ~~(3) A copy of the appraisal management company's most recent audit report, that is no more than~~
263 ~~eleven months old, shall be provided to the Department upon each renewal of an appraisal~~
264 ~~management company's registration in this state, except that an appraisal management~~
265 ~~company shall not be required to submit an audit report with its initial application for~~
266 ~~registration in this state.~~

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268 NEW SECTION. Sec 156. Appraiser fee schedule.

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270 (1) An appraisal management company that applies for licensure ~~registration~~ in this state shall
271 disclose to the department as part of the licensure ~~registration~~ process if it has developed or
272 utilizes any appraiser fee schedule.

273 (2) Appraisal fees must be based upon the complexity of the appraisal performed. In no case
274 may an appraisal fee offered or paid be based upon the value of the subject property, a range
275 of value of the subject property, or the amount of the transaction value.

276 (3) The Department may, at its discretion, review any appraiser fee schedule developed by an
277 appraisal management company licensed in this state.
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279 ~~An appraisal management company that applies for registration in this state and which utilizes~~
280 ~~any appraiser fee schedule shall develop the appraiser fee schedule(s) through one or more~~
281 ~~surveys of the market rates being paid to appraisers in this state for the performance of appraisals.~~
282 ~~The surveys performed pursuant to subsection (2) of this section shall be performed utilizing~~
283 ~~statistically valid methodologies, techniques, and reliable data sources including representative~~
284 ~~samples of appraisers.~~
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286 ~~The department may in its discretion review any appraiser fee schedule developed by an appraisal~~
287 ~~management company registered in this state to ensure that the appraiser fee schedule was~~
288 ~~developed pursuant to the requirements of subsection (2) and subsection (3) of this section.~~
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290 ~~(4) Upon a formal request of the department, an appraisal management company that utilizes any~~
291 ~~appraiser fee schedule shall disclose to the department the methodologies, techniques, and~~
292 ~~data sources that were utilized to determine the amounts listed on the schedule(s).~~

293 ~~(5) Following a review of any fee schedule conducted pursuant to subsection (4) and subsection~~
294 ~~(5) of this section, the department shall make the substantive results of the review available to~~
295 ~~the public.~~
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297 NEW SECTION. Sec 17. Adjudication of disputes between an appraisal management company
298 and an appraiser.
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300 (1) Except within the first thirty (30) days after an appraiser is first added to the appraiser panel
301 of an appraisal management company, an appraisal management company may not remove
302 an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate
303 appraisal services to an appraiser without:

304 (a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the
305 appraiser panel of the appraisal management company;

306 (b) If the appraiser is being removed from the panel for illegal conduct, violation of the Uniform
307 Standards of Professional Appraisal Practice (USPAP), or a violation of state licensing
308 standards, the nature of the alleged conduct or violation, and

309 (c) Providing an opportunity for the appraiser to respond to the notification of the appraisal
310 management company.

311 (2) An appraiser that is removed from the appraiser panel of an appraisal management company
312 for alleged illegal conduct, violation of the Uniform Standards of Professional Appraisal
313 Practice (USPAP), or a violation of state licensing standards, may file a complaint with the
314 department for a review of the decision of the appraisal management company, except that in
315 no case shall the department make any determination regarding the nature of the business
316 relationship between the appraiser and the appraisal management company which is unrelated
317 to the actions specified in subsection (1) of this section.

318 (3) If an appraiser files a complaint against an appraisal management company pursuant to
319 subsection (2) of this sections, the department shall adjudicate the complaint within 180 days.

320 (4) If after opportunity for hearing and review, the department determines that an appraiser did
321 not commit a violation of law, a violation of the Uniform Standards of Professional Appraisal
322 Practice (USPAP), or a violation of state licensing standards, the Department shall order that

323 an appraiser be restored added to the appraiser panel of the appraisal management company
324 that was the subject of the complaint without prejudice.

325 (5) Following the adjudication of a complaint to the department by an appraiser against an
326 appraisal management company, an appraisal management company may not refuse to make
327 assignments for real estate appraisal services to an appraiser, or reduce the number of
328 assignments, or otherwise penalize the appraiser, if the department has found that the
329 appraisal management company acted improperly in removing the appraiser from the
330 appraiser panel.

331 NEW SECTION. Sec 18. Disciplinary actions – Grounds. (1) In addition to the unprofessional
332 conduct described in RCW 18.235.130, the director may take disciplinary action for the following
333 conduct, acts, or conditions:

334 (a) Failing to meet the minimum qualifications for registration established by or pursuant to this
335 chapter;

336 (b) Paying money other than the fees provided for by this chapter to any employee of the
337 director to procure state registration under this chapter;

338 (c) Failing to pay appraisers no later than thirty days after the loan closing documents or ninety
339 days after completion of the appraisal service, whichever comes first, unless otherwise agreed
340 or unless the appraiser has been notified in writing that a bona fide dispute exists regarding
341 the performance or quality of the appraisal service;

342 (d) Coercing, extorting, colluding, compensating, instructing, inducing, intimidating, bribing an
343 appraiser or in any other manner, including but not limited to:

344 (i) Withholding or threatening to withhold timely payment for an appraisal;

345 (ii) Withholding or threatening to withhold future business for, or demoting or terminating or
346 threatening to demote or terminate, an appraiser;

347 (iii) Expressly or impliedly promising future business, promotions, or increased compensation for
348 an appraiser;

349 (iv) Conditioning the request for an appraisal or the payment of an appraisal fee or salary or
350 bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or
351 opinion requested from an appraiser;

352 (v) Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an
353 appraisal report, or provide estimated values or comparable sales at any time prior to the
354 appraiser's completion of an appraisal;

355 (vi) Providing to an appraiser an anticipated, estimate, encouraged, or desired value for a subject
356 property or a proposed or target amount to be loaned to the borrower, except that a copy of
357 the sales contract for purchase transactions must ~~may~~ be provided to the appraiser;

358 (vii) Providing to an appraiser, or any entity or person related to the appraiser, stock or other
359 financial or non-financial benefits;

360 (viii) Allowing the removal of an appraiser from an appraiser panel, without prior written
361 notice to such appraiser;

362 (ix) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated
363 valuation model in connection with a mortgage financing transaction unless there is a

364 reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is
365 clearly and appropriately noted in the loan file, or unless such appraisal or automated
366 valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or
367 quality control process; or

- 368 (x) Any other act or practice that impairs or attempts to impair an appraiser's independence,
369 objectivity, or impartiality;
- 370 (e) Altering, modifying, or otherwise changing a completed appraisal report submitted by an
371 appraiser;
- 372 (f) Copying and using the appraiser's signature for any purpose or in any other report;
- 373 (g) Extracting, copying and/or using only a portion of the appraisal report without reference to
374 the entire report.
- 375 (h) Violating any provision of this chapter or any lawful rule made by the director pursuant
376 thereto.

377 (2) Nothing in subsection (1) of this section shall be construed as prohibiting the appraisal
378 management company from requesting that an appraiser:

- 379 (a) Provide additional information about the basis for a valuation; or
- 380 (b) Correct objective factual errors in an appraisal report.

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382 NEW SECTION. Sec 19. Acting without registration – Penalty. Any person or entity acting as
383 an appraisal management company without a registration that is currently valid is guilty of a
384 misdemeanor.

385 NEW SECTION. Sec 20. Violations – Investigations. The director may investigate the actions
386 of a registered appraisal management company. Upon receipt of information indicating that a
387 registered appraisal management company under this chapter may have violated this chapter, the
388 director may cause one or more staff investigators to make an investigation of the facts to
389 determine whether or not there is admissible evidence of any such violation.

390 NEW SECTION. Sec 21. Duties of attorney general. The attorney general shall render to the
391 director opinions upon all questions of law relating to the construction or interpretation of this
392 chapter, or arising in the administration thereof that may be submitted by the director, and shall
393 act as attorney for the director in all actions and proceedings brought by or against the director
394 under or pursuant to any provisions of this chapter.

395 NEW SECTION. Sec 22. Uniform regulation of business and professions act. The uniform
396 regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the
397 issuance and denial of licenses, and the discipline of licensees under this chapter.

398 NEW SECTION. Sec 23. Severability – 1989 c 414. If any provision of this act or its application
399 to any company or circumstance is held invalid, the remainder of the act or the application of the
400 provision to other companies or circumstances is not affected.

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