BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3746.1/18
ATTY/TYPIST: CL:amh

BRIEF DESCRIPTION: Concerning appraisal management companies and appraisal fees.
AN ACT Relating to appraisal management companies and appraisal fees; amending RCW 18.310.150 and 18.310.050; and adding new sections to chapter 18.310 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.310 RCW to read as follows:

(1) An appraisal management company shall compensate appraisers in compliance with Sec. 129E(i) of the federal truth in lending act (15 U.S.C. Sec. 1601 et seq.) and 12 C.F.R. Sec. 226.42 as they relate to customary and reasonable fees paid to appraisers as required by the Dodd-Frank Wall Street Reform And Consumer Protection Act of 2010.

(2) Appraisal management companies using the Denver Veterans Administration regional loan center fee and timeliness schedule (VA fee schedule), as amended, shall be presumed to be in compliance with the requirement to provide customary and reasonable compensation for Washington state fee appraisers.

(3) The customary and reasonable fee for a complex appraisal may reflect the increased time, difficulty, and scope of work required for such an appraisal and include an amount over and above the customary and reasonable fee for noncomplex assignments. Complex...
1 appraisal assignments shall increase the base appraisal fee by a
2 minimum of fifteen percent for each of the following items present in
3 the assignment. Each percentage increase shall be calculated from the
4 base appraisal fee and shall be added cumulatively.
5   (a) Site size that is greater than one acre and less than six
6      acres;
7      (b) Site size that is greater than six acres and less than ten
8      acres;
9    (c) Site size that is greater than ten acres;
10      (d) Gross living area that is greater than three thousand square
11        feet and less than five thousand square feet;
12      (e) Gross living area that is greater than five thousand square
13        feet and less than seven thousand square feet;
14     (f) Gross living area that is greater than seven thousand square
15       feet;
16       (g) Unique construction type which includes but is not limited to
17           waterfront, beach, golf course, log home, earth home, geodesic dome
18           home, green construction, solar systems, wind power, and any resort
19           property;
20     (h) Rush requests with turn-time or due dates less than those
21       specified in the VA fee schedule;
22       (i) Cost approach;
23     (j) Income approach or comparable rent schedule;
24      (k) Operating income statement;
25      (l) Additional comparable sales or pendings or listings beyond
26       the minimum basic requirements for the Fannie Mae, Freddie Mac,
27       Federal Housing Administration or United States Department of
28       Agriculture;
29     (m) For each revision request after the first revision request
30       once an appraiser has submitted an appraisal report. Revision request
31       fees cannot be passed on to the end loan consumer and must be borne
32       by the appraisal management company.
33     (4) Exterior only appraisals shall be compensated at a minimum of
34       ninety percent of the standard full interior appraisal fee shown in
35       the VA fee schedule.
36     (5)(a) Field reviews shall be compensated at one hundred percent
37       of the fee for a standard interior and exterior URAR 1004 appraisal.
38 The appraisal under review cannot be redacted or altered in any way
39 before providing it to the reviewer. Each of the following shall
increase the compensation for a field review by a minimum of fifteen percent:

(i) Field reviews on appraisals having a total of more than six comparables or pending sales or active listings;

(ii) Each of the applicable conditions listed in subsection (3) of this section.

(b) Desk reviews shall be compensated at no less than thirty-five percent of the fee for a standard URAR 1004 appraisal. The appraisal under review must not be redacted or altered in any way before providing it to the reviewer.

(6) The appraiser shall be entitled to the following minimum cancellation fees if appraisal is canceled by a client or appraisal management company. The appraisal management company shall pay a minimum of:

(a) Twenty-five percent if canceled after assignment has been accepted by the appraiser;

(b) Fifty percent if canceled less than three business days before the site visit or if the site visit has been started;

(c) Sixty percent if the site visit has been completed;

(d) Seventy-five percent if the site visit has been completed and the comparable sales have been researched and photographed;

(e) Ninety percent if the appraiser has begun writing the appraisal report.

(7) Additional trip fees, missed appointment fees, and reinspections (1004D/442) are to be paid at a minimum of thirty-five percent of the appraisal fee.

(8) Any appraisal report ordered as one type or form which is later changed to another type or form of report will automatically incur a minimum twenty-five percent fee increase.

NEW SECTION. Sec. 2. A new section is added to chapter 18.310 RCW to read as follows:

(1) In all cases and instances the laws of the state of Washington shall govern all appraisal management companies doing business with real estate appraisers licensed or certified in the state of Washington and the jurisdiction shall in all cases and instances be with courts of the state of Washington.

(2) Venue in all cases and instances shall be at the selection of the party filing the action of any of the following four venues: (a) The county in which the plaintiff is located; (b) the county in which
any one or more of the properties that is the subject of the
complaint or appraisal is located; (c) the county where the appraisal
management company or their registered agent is located; or (d)
Thurston county.

NEW SECTION. Sec. 3. A new section is added to chapter 18.310
RCW to read as follows:

Appraisal management companies can order and have performed
background checks on potential members of their appraiser panels who
are registered, licensed, or certified appraisers but in no event can
they charge the appraisers for the background checks.

Sec. 4. RCW 18.310.150 and 2010 c 179 s 14 are each amended to
read as follows:

(1) In addition to the unprofessional conduct described in RCW
18.235.130, the director may take disciplinary action for the
following:

(a) Failing to meet the minimum qualifications for licensure
established under this chapter;

(b) Failing to pay appraisers no later than (forty-five)
fifteen calendar days after completion of the appraisal service
(unless otherwise agreed or) unless the appraiser has been notified
in writing prior to the expiration of the fifteen calendar days that
a bona fide dispute exists regarding the performance or quality of
the appraisal service. For the purposes of this subsection, payment
date shall be the date of actual postmark or the date of credit card
or automated clearinghouse payment;

(c) Failing to pay appraisers even if the appraisal management
company is not paid by its client;

(d) Coercing, extorting, colluding, compensating, inducing,
intimidating, bribing an appraiser, or in any other manner including:

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

(ii) Requiring the appraiser to remit a portion of the appraisal
fee back to the appraisal management company;

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

(iv) Expressly or impliedly promising future business,
promotions, or increased compensation for an appraiser;
(v) Conditioning the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

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

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

(viii) Providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits;

(ix) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide prefunding or postfunding appraisal review or quality control process; or

(x) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality, or that violates law;

(e) Altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser including but not limited to unlocking or removing the security features from an electronic appraisal report file or removing the appraiser's signature from the report;

(f) Copying and using the appraiser's signature for any purpose or in any other report;

(g) Extracting, copying, or using only a portion of the appraisal report without reference to the entire report. In any claim, complaint, or allegation against any appraiser by any person, business, or governmental agency, an unaltered original electronic PDF copy or a paper copy bearing the appraiser's original signature shall be in all cases considered the complete original report;
(h) Prohibiting or attempting to prohibit the appraiser from including or referencing the appraisal fee, the appraisal management company name or identity, or the client's or lender's name or identity in the appraisal report;

(i) Knowingly requiring an appraiser to prepare an appraisal report, engaging an appraiser to perform an appraisal, or accepting an appraisal from an appraiser who has informed the appraisal management company that he or she does not have either the geographic competence or necessary expertise to complete the appraisal;

(j) Knowingly requiring an appraiser to prepare an appraisal report under such a limited time frame when the appraiser, in the appraiser's own professional judgment, has informed the appraisal management company that it does not afford the appraiser the ability to meet all relevant legal and professional obligations or provide a credible opinion of value for the property being appraised. This subsection (1)(j) allows an appraiser to decline an assignment, but is not a basis for complaints against the appraisal management company;

(k) Requiring, or attempting to require, an appraiser to modify an appraisal report except as permitted under subsection (2)(a) or (b) of this section;

(l) Prohibiting, or attempting to prohibit, or inhibiting legal or other allowable communication between the appraiser and:

(i) The lender;

(ii) A real estate licensee;

(iii) A property owner; or

(iv) Any other party or person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant or pertinent in completing the appraisal;

(m) Knowingly requiring or attempting to require the appraiser to do anything that violates chapter 18.140 RCW or other applicable state and federal laws or with any allowable assignment conditions or certifications required by the client;

(n) Prohibiting or refusing to allow, or attempting to prohibit or refuse to allow, the transfer of an appraisal from one lender to another lender if the lenders are allowed to transfer an appraisal under applicable federal law; or

(o) Requiring an appraiser to sign any indemnification agreement that would require the appraiser to defend and/or hold harmless the appraisal management company or any of its agents, employees, or
independent contractors for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

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

(a) Provide additional information about the basis for a valuation, including whether or not the appraiser considered other sales and reasons the other sales were either not considered relevant or included in the appraisal; or

(b) Correct objective factual errors in an appraisal report.

Sec. 5. RCW 18.310.050 and 2010 c 179 s 5 are each amended to read as follows:

Every company seeking licensure (whose headquarters is not based in the state of Washington) shall submit, with the application for licensure, an irrevocable consent that service of process upon the controlling person or persons may be made by service on the director if, in an action against the entity in a Washington state court arising out of the entity's activities as an appraisal management company, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the company) proof of registration with the Washington secretary of state's office together with a uniform business identifier (UBI) number and shall at all times thereafter maintain a registered agent located within the boundaries of the state of Washington.

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