

**CHAPTER 148**  
**SB 53 - FINAL VERSION**

03/09/2017 0570s

2017 SESSION

17-0782  
10/06

SENATE BILL           **53**

AN ACT               relative to regulation of appraisal management companies by the real estate appraiser board.

SPONSORS:           Sen. D'Allesandro, Dist 20

COMMITTEE:          Executive Departments and Administration

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AMENDED ANALYSIS

      This bill adds definitions and requirements for the operation in this state of appraisal management companies registered by the real estate appraiser board.

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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                      Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Seventeen*

AN ACT                   relative to regulation of appraisal management companies by the real estate appraiser board.

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

1           148:1 New Section; Licensed Real Estate Appraisers; Definitions for Appraisal Management  
2 Companies. Amend RSA 310-B by inserting after section 2 the following new section:

3           310-B:2-a Definitions for Appraisal Management Companies In addition to the definitions in  
4 RSA 310-B:2 the following shall apply to appraisal management companies:

5           I. "Affiliate" means affiliate as provided in 12 U.S.C. section 1841.

6           II. "AMC National Registry" means the registry of state-registered appraisal management  
7 companies and federally regulated AMCs maintained by the Appraisal Subcommittee.

8           III.(a) "Appraisal management company" or "AMC" means a person that:

9                   (1) Provides appraisal management services to creditors or to secondary mortgage  
10 market participants, including affiliates;

11                   (2) Provides such services in connection with valuing a consumer's principal  
12 dwelling as security for a consumer credit transaction or incorporating such transactions into  
13 securitizations; and

14                   (3) Within a given 12-month period oversees an appraiser panel of more than 15  
15 state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed  
16 appraisers in 2 or more states;

17                   (b) An AMC does not include a department or division of an entity that provides  
18 appraisal management services only to that entity.

19           IV. "Appraisal management services" means one or more of the following:

20                   (a) Recruiting, selecting, and retaining appraisers;

21                   (b) Contracting with state-certified or state-licensed appraisers to perform appraisal  
22 assignments;

23                   (c) Managing the process of having an appraisal performed, including providing  
24 administrative services such as receiving appraisal orders and appraisal reports, submitting  
25 completed appraisal reports to creditors and secondary market participants, collecting fees from  
26 creditors and secondary market participants for services provided, and paying appraisers for  
27 services performed; and

28                   (d) Reviewing and verifying the work of appraisers.

29           V. "Appraiser panel" means a network, list, or roster of licensed or certified appraisers

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1 approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on  
2 an AMC's appraiser panel include both appraisers accepted by the AMC for consideration for future  
3 appraisal assignments in covered transactions or for secondary mortgage market participants in  
4 connection with covered transactions and appraisers engaged by the AMC to perform one or more  
5 appraisals in covered transactions or for secondary mortgage market participants in connection  
6 with covered transactions. An appraiser is an independent contractor if the appraiser is treated as  
7 an independent contractor by the AMC for purposes of federal income taxation.

8 VI. "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial  
9 Institutions Examination Council.

10 VII. "Consumer credit" means credit offered or extended to a consumer primarily for  
11 personal, family, or household purposes.

12 VIII. "Covered transaction" means any consumer credit transaction secured by the  
13 consumer's principal dwelling.

14 IX. "Creditor" means:

15 (a) A person who regularly extends consumer credit that is subject to a finance charge  
16 or is payable by written agreement in more than 4 installments (not including a down payment),  
17 and to whom the obligation is initially payable, either on the face of the note or contract, or by  
18 agreement when there is no note or contract.

19 (b) A person who regularly extends consumer credit if the person extended credit (other  
20 than credit subject to the requirements of 12 C.F.R. section 1026.32) more than 5 times for  
21 transactions secured by a dwelling in the preceding calendar year. If a person did not meet these  
22 numerical standards in the preceding calendar year, the numerical standards shall be applied to the  
23 current calendar year. A person regularly extends consumer credit if, in any 12-month period, the  
24 person originates more than one credit extension that is subject to the requirements of 12 C.F.R.  
25 1026.32 section or one or more such credit extensions through a mortgage broker.

26 X. "Dwelling" means a residential structure that contains one to 4 units, whether or not  
27 that structure is attached to real property. The term includes an individual condominium unit,  
28 cooperative unit, mobile home, and trailer, if it is used as a residence. A consumer can have only  
29 one "principal" dwelling at a time. Thus, a vacation or other second home would not be a principal  
30 dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's  
31 principal dwelling within a year or upon the completion of construction, the new dwelling is  
32 considered the principal dwelling.

33 XI. "Federally regulated AMC" means an AMC that is owned and controlled by an insured  
34 depository institution, as defined in 12 U.S.C. section 1813 and regulated by the Office of the  
35 Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal  
36 Deposit Insurance Corporation.

37 XII. "Federally related transaction regulations" means regulations established by the Office

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1 of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the  
2 Federal Deposit Insurance Corporation, or the National Credit Union Administration, pursuant to  
3 sections 1112, 1113, and 1114 of FIRREA, Title XI, 12 U.S.C. sections 3341-3343.

4 XIII. "Person" means a natural person or an organization, including a corporation,  
5 partnership, proprietorship, association, cooperative, estate, trust, or government unit.

6 XIV. "Secondary mortgage market participant" means a guarantor or insurer of mortgage-  
7 backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage  
8 market participant only includes an individual investor in a mortgage-backed security if that  
9 investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-  
10 backed security.

11 XV. "States" mean the 50 states and the District of Columbia and the territories of Guam,  
12 Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

13 XVI. "Uniform Standards of Professional Appraisal Practice" or "USPAP" means the current  
14 standards of the appraisal profession, developed for appraisers and users of appraisal services by  
15 the Appraisal Standards Board of the Appraisal Foundation.

16 148:2 New Sections; Appraisal Management Companies. Amend RSA 310-B by inserting after  
17 section 12-o the following new sections:

18 310-B:12-p Appraiser Panel; Annual Size Calculation. For purposes of determining whether,  
19 within a 12-month period, an AMC oversees an appraiser panel of more than 15 state-certified or  
20 state-licensed appraisers in a state or 25 or more state-certified or state-licensed appraisers in 2 or  
21 more states:

22 I. An appraiser is deemed part of the AMC's appraiser panel as of the earliest date on which  
23 the AMC:

24 (a) Affirms acceptance of the appraiser for the AMC's consideration for future appraisal  
25 assignments in covered transactions or for secondary mortgage market participants in connection  
26 with covered transactions; or

27 (b) Engages the appraiser to perform one or more appraisals on behalf of a creditor for a  
28 covered transaction or secondary mortgage market participant in connection with covered  
29 transactions.

30 II. An appraiser who is deemed part of the AMC's appraiser panel pursuant to paragraph I  
31 is deemed to remain on the panel until the date on which the AMC:

32 (a) Sends written notice to the appraiser removing the appraiser from the appraiser  
33 panel, with an explanation of its action; or

34 (b) Receives written notice from the appraiser asking to be removed from the appraiser  
35 panel or notice of the death or incapacity of the appraiser.

36 III. If an appraiser is removed from an AMC's appraiser panel pursuant to paragraph II,  
37 but the AMC subsequently re-admits or engages the appraiser at any time during the 12 months

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1 after the AMC's removal, the removal will be deemed not to have occurred, and the appraiser will  
2 be deemed to have been part of the AMC's appraiser panel without interruption.

3 IV. The period for purposes of counting appraisers on an AMC's appraiser panel may be the  
4 calendar year or a 12-month period established by law or rule of each state with which the AMC is  
5 required to register.

6 310-B:12-q Appraisal Management Company Registration; Regulation.

7 I. As a participating state electing to register AMCs, this state hereby establishes and  
8 maintains within the state appraiser certifying and licensing agency a licensing program that is  
9 subject to the ownership limitations set forth below and with the legal authority and mechanisms  
10 to:

11 (a) Review and approve or deny an AMC's application for initial registration;

12 (b) Review and renew or review and deny an AMC's registration periodically;

13 (c) Examine the books and records of an AMC operating in the state and require the  
14 AMC to submit reports, information, and documents;

15 (d) Verify that the appraisers on the AMC's appraiser panel hold valid state  
16 certifications or licenses, as applicable;

17 (e) Conduct investigations of AMCs to assess potential violations of applicable appraisal-  
18 related laws, regulations, or orders;

19 (f) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that  
20 violates applicable appraisal-related laws, regulations, or orders; and

21 (g) Report an AMC's violation of applicable appraisal-related laws, regulations, or  
22 orders, as well as disciplinary and enforcement actions and other relevant information about an  
23 AMC's operations, to the Appraisal Subcommittee.

24 II. As a participating state electing to register AMCs, this state hereby imposes  
25 requirements on AMCs that are not owned and controlled by an insured depository institution and  
26 not regulated by a federal financial institutions regulatory agency to:

27 (a) Register with and be subject to supervision by the state appraiser certifying and  
28 licensing agency;

29 (b) Engage only state-certified or state-licensed appraisers for federally-related  
30 transactions in conformity with any federally-related transaction regulations;

31 (c) Establish and comply with processes and controls reasonably designed to ensure that  
32 the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and  
33 who has the requisite education, expertise, and experience necessary to competently complete the  
34 appraisal assignment for the particular market and property type;

35 (d) Direct the appraiser to perform the assignment in accordance with USPAP; and

36 (e) Establish and comply with processes and controls reasonably designed to ensure  
37 that the AMC conducts its appraisal management services in accordance with the requirements of

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1 section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C. section 1639e(a) through (i), and  
2 regulations thereunder.

3 310-B:12-r Ownership Limitations for State-registered AMCs.

4 I. Appraiser certification or licensing of owners.

5 (a) An AMC subject to state registration shall not be registered by this state or included  
6 on the AMC National Registry if such AMC, in whole or in part, directly or indirectly, is owned by  
7 any person who has had an appraiser license or certificate refused, denied, canceled, surrendered in  
8 lieu of revocation, or revoked in any state for a substantive cause, as determined by the appropriate  
9 state appraiser certifying and licensing agency.

10 (b) An AMC subject to state registration is not barred by from being registered by this  
11 state or included on the AMC National Registry if the appraiser license of the appraiser with an  
12 ownership interest was not revoked for a substantive cause and has been reinstated by the state or  
13 states in which the appraiser was licensed or certified.

14 II. Good moral character of owners. An AMC shall not be registered by this state if any  
15 person that owns more than 10 percent of the AMC:

16 (a) Is determined by the state appraiser certifying and licensing agency not to have  
17 good moral character; or

18 (b) Fails to submit to a background investigation carried out by the state appraiser  
19 certifying and licensing agency.

20 310-B:12-s Requirements for Federally Regulated Appraisal Management Companies;  
21 Reporting Information for the AMC National Registry. A federally regulated AMC operating in this  
22 state must report to the state the information required to be submitted by the state to the Appraisal  
23 Subcommittee, pursuant to the Appraisal Subcommittee's policies regarding the determination of  
24 the AMC National Registry fee, including but not necessarily limited to the collection of information  
25 related to ownership limitations set forth in this chapter.

26 310-B:12-t Information to be Presented to the ASC by Participating States. As a state electing  
27 to register AMCs for purposes of permitting AMCs to provide appraisal management services  
28 relating to covered transactions in this state, this state shall submit to the ASC the information  
29 required to be submitted by ASC regulations or guidance concerning AMCs that operate in the  
30 state.

31 310-B:12-u Application; Appraisal Management Company Provisions. Nothing in RSA 310-  
32 B:12-b through RSA 310-B:12-t shall be construed to limit the board's ability to enforce the  
33 remainder of this chapter or the administrative rules adopted by the board against persons licensed  
34 or registered by the board.

35 148:3 Repeals. The following are repealed:

36 I. RSA 310-B:2, XVII, relative to the definition of appraisal management company.

37 II. RSA 310-B:2, XX, relative to the definition of appraiser panel.

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148:4 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 16, 2017  
Effective Date: August 15, 2017