

2016 Regular Session

HOUSE BILL NO. 804

BY REPRESENTATIVE PUGH

REAL ESTATE/APPRAISERS: Regulates real estate appraisers and appraisal management companies

1 AN ACT

2 To amend and reenact R.S. 37:3397(B)(1) and (3), 3411, 3415.10, 3415.15(A) and to enact  
3 R.S. 37:3415.16(C) and 3415.22, relative to the regulation of real estate appraisers  
4 and appraisal management companies; provides for licensing classifications and  
5 requirements; to regulate record keeping requirements; to change a sunset provision;  
6 to regulate real estate appraiser compensation; to impose restrictions on the  
7 assessment of fees or costs; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:3397(B)(1) and (3), 3411, 3415.10, 3415.15(A) are hereby  
10 amended and reenacted and R.S. 37:3415.16(C) and 3415.22 are enacted to read as follows:

11 §3397. License classifications; criteria

12 \* \* \*

13 B.(1)(a) Applicants for a real estate appraiser trainee license shall be subject  
14 to training and direct supervision by a certified appraiser who meets all of the  
15 following qualifications:

16 (i) Has been licensed as a certified real estate appraiser in Louisiana for at  
17 least three years prior to becoming a supervising appraiser.

18 (ii) Is in good standing as a certified residential or certified general real  
19 estate appraiser in Louisiana.

1 (b) Both the trainee applicant and the supervising appraiser shall complete  
 2 a course that complies, at minimum, with the specifications for course content  
 3 established by the Appraiser Qualifications Board (AQB) of the Appraisal  
 4 Foundation. The course shall be oriented toward the requirements and  
 5 responsibilities of supervising appraisers and expectations for trainee appraisers.  
 6 The course shall be completed by the trainee appraiser prior to obtaining a trainee  
 7 appraiser license and by the supervising appraiser prior to supervising a trainee  
 8 appraiser. The supervising appraiser shall not have been subject to any disciplinary  
 9 action in any jurisdiction within the last three years that affects the supervisor's legal  
 10 eligibility to engage in appraiser practice. The appraiser trainee is permitted to have  
 11 more than one supervising appraiser. The scope of work for the appraiser trainee is  
 12 limited to the appraisal of those properties that the supervising appraiser is licensed  
 13 to appraise.

14 \* \* \*

15 ~~(3) The appraiser trainee shall maintain a separate appraisal log for each~~  
 16 ~~supervising licensed appraiser that includes, at a minimum, the following~~  
 17 ~~information for each appraisal.~~ An appraisal experience log shall be maintained  
 18 jointly by the supervising appraiser and the trainee appraiser. It is the responsibility  
 19 of both the supervisory appraiser and the trainee appraiser to ensure the appraisal  
 20 experience log is accurate, current, and complies with the requirements of the trainee  
 21 appraiser's credentialing jurisdiction. At a minimum, the appraisal log shall include  
 22 the following:

- 23 (a) Type of property.
- 24 (b) ~~Client name and address~~ Date of report.
- 25 (c) Address of appraised property.
- 26 (d) Description of work performed by the ~~appraiser trainee and supervising~~  
 27 ~~appraiser~~ trainee appraiser and scope of the review and supervision of the  
 28 supervisory appraiser.
- 29 (e) Number of actual work hours by the trainee appraiser on the assignment.

1 (f) ~~Name~~; The signature; and state license certification number of the  
2 supervising supervisory appraiser. Separate appraisal logs shall be maintained for  
3 each supervisory appraiser if applicable.

4 \* \* \*

5 §3411. Documents to be retained

6 A licensed real estate appraiser shall retain for five years originals or true  
7 copies of contracts engaging the appraiser's services for real property appraisal work,  
8 appraisal reports, and supporting data assembled and formulated by the appraiser in  
9 preparing reports. The period for retention of the records applicable to each  
10 engagement of the services of the appraiser shall run from the date of the submission  
11 of the appraisal report to the client. These records shall be made available by the  
12 appraiser for inspection and copying by the board on reasonable notice to the  
13 appraiser. When litigation is contemplated at any time, reports and records shall be  
14 retained for two years ~~after the trial date~~ from final disposition.

15 \* \* \*

16 §3415.10. License application assessment; delinquent renewal

17 A. When accepting an application for an initial or renewal license, the board  
18 is authorized to collect an assessment not in excess of one thousand five hundred  
19 dollars.

20 B. If the license renewal is delinquent, the board is further authorized to  
21 collect a delinquent renewal assessment as follows:

22 (1) If the renewal application is submitted during the period of January first  
23 to February fifteenth, an amount not in excess of one hundred fifty dollars.

24 (2) If the renewal application is submitted during the period of February  
25 sixteenth to June thirtieth, an amount not in excess of three hundred dollars.

26 C. If an initial license is issued after January first of any year, the assessment  
27 shall be prorated to the remaining portion of the year ending December thirty-first.

28 D. The provisions of this Section shall expire on December 31, ~~2015~~ 2017.

29 \* \* \*

1 §3415.15. Fees; customary and reasonable; disclosure

2 A. An appraisal management company shall compensate appraisers at a rate  
3 that is customary and reasonable for appraisals being performed in the market area  
4 of the property being appraised, consistent with the ~~presumptions of compliance~~  
5 under requirements of 15 U.S.C. 1639(e) and the final federal law rules as provided  
6 for in the applicable provisions of 12 CFR Parts 34, 225, 226, 323, 1026, and 1222.

7 \* \* \*

8 §3415.16. Appraiser independence; prohibitions

9 \* \* \*

10 C.(1) It is unlawful for an appraisal management company to assess from a  
11 fee appraiser any transactional fee or cost that would cause the appraiser's  
12 compensation for a specific assignment to fall below a rate that is customary and  
13 reasonable for appraisals being performed in the market area of the property being  
14 appraised.

15 (2) This Subsection shall not be construed to restrict the ability of an  
16 appraisal management company to assess or collect fees related to appraiser panel  
17 management that are not transactional in nature including but not limited to fees for  
18 conducting periodic background checks.

19 \* \* \*

20 §3415.22. Federal registry requirements

21 A. The board shall collect, from each appraisal management company that  
22 is registered or seeking to be registered in this state, the information that the  
23 appraisal subcommittee requires to be submitted to it by the state pursuant to  
24 regulations promulgated by the appraisal subcommittee, including the collection of  
25 administrative fees consistent with the final federal rules as provided for in the  
26 applicable provisions of 12 CFR Parts 34, 208, 225, 323, 390, 1026, and 1222.

27 B.(1) A federally regulated appraisal management company operating in this  
28 state shall report to the board any information required to be submitted by the state  
29 to the appraisal subcommittee pursuant to the policies of the appraisal subcommittee

1 regarding the determination of the appraisal management company national registry

2 fee.

3 (2) Reports submitted pursuant to this Subsection shall include the following:

4 (a) A statement, in a form prescribed by the board, detailing the intent of the

5 federally regulated appraisal management company to operate in this state.

6 (b)(i) Any information related to whether the appraisal management company

7 is owned in whole or in part, directly or indirectly, by any person who has had an

8 appraiser license or certification refused, denied, cancelled, surrendered in lieu of

9 revocation, or revoked in any state.

10 (ii) Any information related to the revocation of a license of any person

11 described in Paragraph (i) of this Paragraph and whether the revoked license has

12 been reinstated by the state or states in which the appraiser was licensed.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 804 Engrossed

2016 Regular Session

Pugh

**Abstract:** Regulates real estate appraisers and appraisal management companies.

Present law establishes the standard for certification as an appraiser who may supervise appraiser trainees. Present law requires a supervisor to have the following qualifications:

- (i) Licensure as a certified real estate appraiser for at least three years prior to becoming a supervising appraiser.
- (ii) Good standing as a certified residential or certified general real estate appraiser.

Proposed law adds a restriction that the enumerated qualifications of present law must have been achieved in La.

Present law states, in part, that a supervising appraiser shall not have been subject to any disciplinary action within the last three years that affects the supervisor's legal eligibility to engage in appraiser practice. Proposed law clarifies that the regulation imposed by present law includes such disciplinary actions in any jurisdiction.

Present law requires an appraiser trainee to maintain a separate appraisal log for each supervising licensed appraiser, and present law enumerates a list of information that must be included in the log. Proposed law amends present law and clarifies that an appraisal experience log shall be maintained jointly by the supervising appraiser and the trainee appraiser. Proposed law further clarifies that it is the responsibility of both the supervisory appraiser and the trainee appraiser to ensure the appraisal experience log is accurate, current, and complies with the requirements of the trainee appraiser's credentialing jurisdiction.

Proposed law amends present law by changing the enumerated list of information that must be included in the log and establishes a minimum standard that includes the following:

- (1) Type of property.
- (2) Date of report.
- (3) Address of appraised property.
- (4) Description of work performed by the trainee appraiser and scope of the review and supervision of the supervisory appraiser.
- (5) Number of actual work hours by the trainee appraiser on the assignment.
- (6) The signature and state certification number of the supervisory appraiser. Separate appraisal logs shall be maintained for each supervisory appraiser if applicable.

Present law imposes certain record keeping requirements on licensed real estate appraisers. Present law requires appraisers to retain reports and records for two years after the trial date of any expected litigation. Proposed law requires appraisers to retain reports and records for two years after final disposition.

Present law imposes an expiration date on certain application procedures relative to applicants for licenses or licensees applying for a renewal of their licenses. Proposed law retains the portion of present law imposing the sunset provision but changes the sunset date from December 31, 2015, to December 31, 2017.

Present law requires any appraisal management company to compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law. Proposed law retains present law consistent with the final federal rules as provided for in the applicable provisions of present law (12 CFR Parts 34, 225, 226, 323, 1026, and 1222). Proposed law also requires appraisal management companies to compensate appraisers in a manner consistent with the requirements imposed by present law (15 U.S.C. 1639(e)).

Proposed law makes it unlawful for an appraisal management company to assess from a fee appraiser any transactional fee or cost that would cause the appraiser's compensation for a specific assignment to fall below a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised. Proposed law clarifies that proposed law shall not be construed to restrict the ability of an appraisal management company to assess or collect fees related to appraiser panel management that are not transactional in nature including but not limited to fees for conducting periodic background checks.

Proposed law requires the board to collect, from each appraisal management company that is registered or seeking to be registered in this state, the information that the appraisal subcommittee requires to be submitted to it by the state pursuant to regulations promulgated by the appraisal subcommittee, including the collection of administrative fees consistent with the final federal rules.

Proposed law requires federally regulated appraisal management companies operating in this state to report to the board any information required to be submitted by the state to the appraisal subcommittee pursuant to the policies of the appraisal subcommittee regarding the determination of the appraisal management company national registry fee. Proposed law requires that reports submitted pursuant to proposed law shall include the following:

- (1) A statement, in a form prescribed by the board, detailing the intent of the federally regulated appraisal management company to operate in this state.

- (2) Any information related to whether the appraisal management company is owned in whole or in part, directly or indirectly, by any person who has had an appraiser license or certification refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state.
- (3) Any information related to the revocation of a license of any person described in proposed law and whether the revoked license has been reinstated by the state or states in which the appraiser was licensed.

(Amends R.S. 37:3397(B)(1) and (3), 3411, 3415.10, 3415.15(A); Adds R.S. 37:3415.16(C) and 3415.22)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Retain a sunset provision but extend the applicable sunset date from Dec. 31, 2015, to Dec. 31, 2017.
3. Correct references to certain provisions of federal law.
4. Revise provisions of the bill restricting the ability of appraisal management companies to impose certain fees and costs.