

NOTICE IS HEREBY GIVEN that the Director of the Office of Real Estate Appraisers (OREA) proposes to adopt and to amend regulations in order to implement amendments to the Real Estate Appraisers; Licensing and Certification Law pursuant to Senate Bill 237 (Statutes of 2009, Chapter 173) (“SB 237”). SB 237 authorizes the Director of OREA to register appraisal management companies as defined under Section 11302(d) of the Business and Professions Code (“Code”). The Director proposes to amend California Code of Regulations, Title 10, Chapter 6.5 of Sections 3500, 3522, 3523, 3524, 3526, 3527, 3528, 3529, 3530, 3582, 3681, 3702, 3703, 3721, 3724, 3726, 3728, 3731, and 3741, and proposes to adopt Sections 3575, 3576, and 3577.

A public hearing for the collection of comments about this proposal has not been scheduled. However, any interested person or his or her duly authorized representative may present statements, arguments or conclusions in writing. In addition, a public hearing will be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to OREA a request that a hearing be held.

Any written comments on the proposed regulations must be received no later than 5:00 P.M. on December 13, 2010, which is hereby designated as the close of the written comment period. Please submit written comments to:

Office of Real Estate Appraisers
1102 Q Street, Suite 4100
Sacramento, CA 95811

CONTACT: Inquiries concerning the action described in this Notice may be directed to Bob Clark, Director, at (916) 440-7878 or to Kathleen Chovan, Department Counsel at (916) 341-6126.

AUTHORITY AND REFERENCE: Pursuant to the authority vested in the Director of the Office of Real Estate Appraisers by Business and Professions Code, Sections 11302, 11310, 11313, 11314, 11325, 11327, 11328, 11340, 11345, 11345.05, 11360, 11361 and 11400 and to implement, interpret or make specific Public Law 101-73, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Director of OREA is proposing amendments to California Code of Regulations, Title 10, Chapter 6.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The U.S Congress enacted Title XI of FIRREA in 1989, mandating all states to license real estate appraisers who appraise real property for federally related real estate transactions as defined. In response to the federal mandate, the California Legislature passed the Real Estate Appraisers’ Licensing and Certification Law [Stats. 1990, c.491,

(AB 527), amended by Stats. 1990, c. 1062 (SB 910), Stats. 1991, c. 84 (SB 1028), Stats. 1993, c. 331 (SB 914), Stats. 1993, c. 343 (SB 173), Stats. 1993, c. 940 (AB 1723), Stats. 1993, c. 941 (AB 387), Stats. 1994, c. 837 (AB 2634), Stats. c. 439 (SB 1316), Stats. 1997, c. 790 (SB 1348), Stats. 1998, c. 366 (AB 2244), Stats. 1999, c. 974 (AB 431), Stats. 2007, c. 291 (SB 223), and Stats. 2009, c. 173 (SB 237)]. The law charges OREA with licensing real estate appraisers, enforcing ethical and professional standards and qualifications, and registering appraisal management companies in California. Regulations previously adopted by OREA to carry out these federal and state statutory requirements are being amended as follows:

1. Section 3500. Meaning of Words and General Definitions

SB 237 provides definitions for the following: Appraisal Management Company, Certificate of Registration, Controlling Person, and Registration. The relevant terms under Section 3500 mirror these statutory definitions. In addition, the Director of OREA proposes new terms: “Designated Officer” and “Registrant” to further identify and clarify the implementation process of appraisal management company registration.

2. Section 3522. License or Certificate of Registration

Section 11320.5 of the statute enacted by SB 237 provides the underlying authority for OREA to issue certificates of registration to appraisal management companies. Section 3522 is further supplemented with the requirements for information to be included with the certificates of registration. Certificates contain the name of the registrant, registration number, any restrictions, and the dates of issuance and expiration of the registration.

3. Sections 3523, 3524, 3526, 3527, 3529, 3530

These sections of the regulations define standard operating terms and procedures for licensed appraisers, and govern the term of the license, consent to service of process, changes to personal or contact information, and restrictions on the licensing for aliens. In addition, licensees are notified that licenses are considered the property of OREA and that licensee records are subject to audit by OREA. Amendments are proposed in order to make the operating terms and procedures applicable to holders of certificates of registration for appraisal management companies.

4. Section 3528. Minimum Requirements

The minimum requirements for issuance of certificates of registration for appraisal management companies is referenced in this section, with the specific requirements for certification detailed in Sections 3575 and 3576. The Emergency Regulations filed January 21, 2010 provided for the issuance of conditional certificates of registration in order for appraisal management companies to timely comply with the new registration requirement. It was necessary to issue conditional certificates of registration during the Emergency Regulation period to enable applicants to temporarily continue operation in California while OREA conducted the regular rulemaking procedure. The implementation of permanent regulations obviates the need to issue conditional certificates of registration; therefore, Sections 3528(d) and (e) are deleted from the regular rulemaking regulations text.

5. Section 3575. Application

Current regulations do not include provisions for the application process for the registration of appraisal management companies. The Director of OREA proposes adding Section 3575 to the regulations to delineate the requirements for such application process and to specify the forms to be used by appraisal management companies for the application process.

6. Section 3576. Background requirements for Controlling Persons in Appraisal Management Companies

Appraisal management companies represent a business that involves a trust relationship with lender clients; therefore, the new statute restricts individuals with a history of specified licensing or criminal infractions from acting as Controlling Persons of a registered appraisal management company. The Director of OREA proposes adding Section 3576 to clearly delineate the background requirements that a Controlling Person of an appraisal management company must meet in order to qualify for a certificate of registration. It is also important that each appraisal management company have a primary contact person for communicating with OREA. Accordingly, this section identifies such person as the Designated Officer, who shall serve as the focal point for dialogue regarding questions or complaints involving the appraisal management company.

7. Section 3577. Minimum Standards of Practice for Appraisal Management Companies

Business and Professions Code Sections 11345.3, 11345.4, 11345.45, and 11345.6 establish the minimum standards of practice for appraisal management companies. The standards are further delineated in this section of the regulations to ensure that appraisers operate in conformance with the Uniform Standards of Professional Appraisal Practice, and that appraisal management companies understand and support the ethical obligations that licensed and certified appraisers are mandated to comply with.

8. Section 3582. Fee Schedule

SB 237 requires OREA to establish and implement a new program to register and regulate appraisal management companies as entities distinct from individual real estate appraisers. This section establishes the fees to be paid by appraisal management companies for application and issuance of certificates of registration. New federal legislation, the Dodd-Frank Wall Street Reform and Consumer Protection Act (HR 4173), signed into law on July 21, 2010, provides for an increase in National Registry fees for appraisers and for the collection of National Registry fees for appraisal management companies; therefore, additional language is proposed in this section to clarify what these fees shall be.

9. Section 3681. Renewal Application

The Director proposes new language in Section 3681 to delineate requirements for certificate of registration renewal that are comparable to the existing requirements for appraisal license renewal. These requirements provide for a certification from the

Designated Officer that the appraisal management company has complied with state statutes and regulations in the previous two-year period, set forth a continuing education requirement, and designate a new renewal application form for appraisal management companies, separate from the renewal form utilized by licensed appraisers.

10. Section 3702. Special Qualifications of Appraisers and Controlling Persons of Appraisal Management Companies

Appraisal management companies and their associated Controlling Persons have a responsibility to their clients and the public to generate and maintain a culture based on ethical and competent standard business practices, which must be comparable to those required of appraisers under the Uniform Standards of Professional Appraisal Practice. The Director proposes new language in Section 3702 to extend the essential standards of honesty, candor, integrity and trustworthiness to each Controlling Person, vested with the responsibility to promote and maintain these standards to the operation of the registered appraisal management company as a whole.

11. Sections 3703, 3721, 3724, 3726, 3728, 3731, and 3741

These sections of the existing regulations, which define the disciplinary process and sanctions for illegal actions by licensed appraisers, do not apply to appraisal management companies. The Director proposes to amend these sections to include holders of certificates of registration as subject to existing disciplinary procedures and sanctions.

FISCAL IMPACT

- Cost or Savings to Any State Agency: Additional costs of \$30,000 to OREA in Fiscal Year 2010-11, which will be absorbed within existing budget. Estimated ongoing annual costs of \$120,000 to be funded by registration fees.
- Direct or indirect costs or savings in federal funding to the state: None
- Other nondiscretionary cost or savings imposed on local agencies: None
- Costs to any local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code: None

DETERMINATIONS

The Office of Real Estate Appraisers has made an initial determination that the adoption/amendment/repeal of this regulation:

- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with business in other states.
- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not significantly affect: (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses, the expansion of business

or the elimination of existing businesses currently doing business within the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

A representative private person or business that is defined as an appraisal management company that is in reasonable compliance with the proposed action could incur initial application costs of \$230 to \$900, depending on its number of Controlling Persons, and ongoing registration costs of \$800 per year.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office of Real Estate Appraisers has prepared and has available for public review an Initial Statement of Reasons for the proposed changes in these regulations, the information upon which the proposed changes are based and the text of the proposed regulations, as changed. A copy of the Initial Statement of Reasons and a copy of the proposed regulation text are available upon request by writing to OREA at the address noted above, which will also be the location of public records, including reports, documentation and other materials related to the proposed regulations. The information may also be accessed on OREA's website at www.orea.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person(s) named in this notice or may be accessed on OREA's website at www.orea.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation, which is changed or modified from the express terms of the proposed action, will be made available by OREA at least 15 days prior to the date on which OREA adopts, amends or repeals the resulting regulations.

EFFECT ON SMALL BUSINESS

The Office of Real Estate Appraisers has determined that the adoption of these regulations will have a positive effect on independent fee appraisal small businesses by requiring appraisal management companies, as defined, to adhere to required business and registration standards.

CONSIDERATION OF ALTERNATIVES

The Office of Real Estate Appraisers must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of OREA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.