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CHAPTER 310-B STATE LICENSED OR CERTIFIED REAL ESTATE APPRAISERS

310-B:1 Purpose. – The purpose of this chapter is to bring New Hampshire into compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. However, any real estate appraisal service performed by an individual licensed or certified under this chapter shall be subject to the supervision of the board.

310-B:2 Definitions. – In this chapter:

I. "Analysis" means a study of real estate or real property other than estimating value.

II. "Appraisal report" or "real estate appraisal report" means a written statement prepared by a licensed or certified appraiser, whether or not used in connection with a federally-related transaction under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information. Nothing in this paragraph shall be interpreted to affect the right of any person to provide services under RSA 310-B:3, II, III, or IV.

III. "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility or specified interests in, or aspects of, identified real estate.

IV. "Appraisal Foundation" means the Appraisal Foundation incorporated as an Illinois nonprofit corporation on November 30, 1987. The purposes of the Appraisal Foundation are:

(a) To establish and improve uniform appraisal standards by defining, issuing and promoting such standards.

(b) To establish appropriate criteria for the certification, licensing, relicensing, and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; and to disseminate such qualification criteria to states, governmental entities and others.

(c) To develop or assist in the development of appropriate examinations for qualified appraisers.

V. [Repealed.]

VI. "Board" means the real estate appraiser board established pursuant to the provisions of this chapter.

VII. "Certified residential appraisal," "certified general appraisal," "licensed residential appraisal," "certified residential appraisal report," "certified general appraisal report," or "licensed residential appraisal report" means a written appraisal or appraisal report signed by a state licensed or certified real estate appraiser. All real estate appraisers shall identify which license or certificate they hold. An appraisal signed by a certified or licensed real estate appraiser represents to the public that the appraisal meets the

appraisal standards defined in this chapter.

VIII. "Certified residential real estate appraiser," "certified general real estate appraiser," or "licensed residential real estate appraiser" means a New Hampshire state certified or licensed appraiser who develops and communicates real estate appraisals and who holds a valid certificate or license issued for either general or residential real estate appraising under the provisions of this chapter.

IX. "Federally-related transaction" means any transaction which:

(a) A federal financial institution's regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(b) Requires the services of an appraiser.

X. "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

XI. "Financial institution" means an insured depository institution as defined in section 1813 of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 or an insured credit union as defined in section 1752 of such title.

XII. "Real estate" means an identified parcel or tract of land, including improvements, if any.

XIII. "Real estate related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(b) The refinancing of real property or interests in real property; and

(c) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

XIV. "Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.

XV. "Valuation" means an estimate of the value of real estate or real property.

XVI. "Appraisal" means the practice of developing an opinion of the value of real property in conformance with the Uniform Standards for Professional Appraisal Practice as developed by the Appraisal Foundation.

XVII. "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of, or other principal in, the secondary mortgage markets:

(a) To recruit, select, and retain appraisers;

(b) To contract with licensed and certified appraisers to perform appraisal assignments;

(c) To manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal

reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(d) To review and verify the work of appraisers.

XVIII. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that a quality control examination of an appraisal report shall not be an appraisal review.

XIX. "Appraiser" means an individual who holds a license or certification as an appraiser and is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

XX "Appraiser panel" means a group of licensed or certified independent appraisers that have been selected to perform appraisal services for a third party.

XXI. "Controlling person" means:

(a) An officer director, or owner of greater than a 10 percent interest, of a corporation, partnership or other business entity, seeking to act as an appraisal management company in this state; or

(b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of services requiring registration as an appraisal management company and has the authority to enter into agreements with appraisers for the performance of appraisals; or

(c) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

XXII. "Person" means an individual, firm, partnership, limited partnership, limited liability company, association, corporation, or other group engaged in joint business activities, however organized.

XXIII. "Quality control examination" means an examination of an appraisal report for compliance and completeness including grammatical, typographical, or other similar errors.

XXIV. "Uniform Standards of Professional Appraisal Practice" (USPAP) means the current standards of the appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation.

310-B:3 Licensure and Certification Use. –

I. No person, other than a certified or licensed real estate appraiser, shall assume or use that title or any title, designation, or abbreviation likely to create the impression of certification or licensure as a real estate appraiser by this state. A person who is not certified or licensed pursuant to this chapter shall not describe or refer to any appraisal or other evaluation or real estate located in this state by the term "certified" or "licensed."

II. Paragraph I shall not preclude a person who is not certified or licensed as a real estate appraiser from appraising real estate for non-federally related transactions for compensation.

III. The provisions of this chapter shall not apply to an employee, or an elected or appointed representative of a municipality, or a person under contract by a municipality doing valuation for the sole purpose of ad valorem taxation.

IV. The provisions of this chapter shall not apply to a real estate licensee under RSA 331-A when

performing comparative market analyses or broker price opinions pursuant to permitted activities regulated by the New Hampshire real estate commission.

310-B:3-a Penalty for Unlicensed Practice. – Any person who shall practice or attempt to practice as a licensed or certified real estate appraiser in this state without a license shall be guilty of a class A misdemeanor if a natural person, or guilty of a felony if any other person.

310-B:4 Real Estate Appraiser Board. –

I. There is established an independent real estate appraiser board which shall be administratively attached to the department of state. The board shall be composed of the following 7 members, appointed by the governor with the consent of council:

(a) Three real estate appraisers with a minimum of 5 years' experience, consisting of one New Hampshire certified residential appraiser, one New Hampshire certified general appraiser, and one New Hampshire certified appraiser who is a broker licensed under RSA 331-A; provided that no 2 appraiser members shall be members of the same private appraisal organization.

(b) One representative from a New Hampshire lending institution.

(c) The banking commissioner or designee.

(d) Two members of the general public not associated directly or indirectly with banking, brokerage, real estate appraisal, insurance, or any other affected industry.

II. All appointments shall be made within 90 days after the effective date of this chapter.

III. On or before July 1, 1991, each real estate appraiser member of the board shall be certified or licensed as a real estate appraiser under this chapter. One such member shall hold the residential license and one such member shall hold a general appraiser certificate.

IV. The term of each member shall be 3 years, except that, of the members first appointed, 3 shall serve for 3 years, 2 shall serve for 2 years, and 2 shall serve for one year.

V. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person, except the commissioner or designee, shall serve as a member of the board for more than 2 consecutive terms. The appointing authority may remove a member for cause.

VI. The board shall meet at least once each calendar quarter to conduct its business and more often on call of the chair, or when the chair is requested to do so by 4 or more members of the board. The action of the majority of the members of the board present and voting shall be deemed the action of the board, and at least 4 members shall be present and voting on every vote of the board. Places of future meetings shall be decided by the vote of members at meetings or, in the event of a special meeting, by the chair. Written notice shall be given by the chair to each member of the time and place of each meeting of the board at least 10 days in advance.

VII. The chairman of the board shall be elected from the board's members. Neither the banking commissioner nor his designee shall serve as chairman.

VIII. No board member shall be entitled to a per diem allowance. Board members shall be reimbursed for actual travel in the performance of official duties at the usual state employee rate.

IX. The members of the board shall be immune from any civil action or criminal prosecution for

actions taken in their capacity as members of the board, provided that such action is taken in good faith and in the reasonable belief that the action was taken pursuant to the powers and duties of the board under this chapter.

X. All administrative, clerical, and business processing functions of the board shall be transferred to the joint board of licensure and certification, established in RSA 310-A:1, on July 1, 2011.

310-B:5 Licensure or Certification Process. –

I. Applications for original license or certification, renewal license or certification and examinations shall be made in writing to the board on forms approved by the board.

II. Appropriate fees, as fixed by the board under rules established pursuant to RSA 541-A, shall accompany all applications for original license, certification, renewal license, renewal certification, reciprocal license, and reciprocal certification. An annual federal registration fee shall be collected by the board for transmittal to the federal government under Title XI.

III. At the time of filing an application for certification or licensure, each applicant shall sign a pledge to comply with the standards set forth in this chapter and state that he understands the types of misconduct for which disciplinary proceedings may be initiated against a certified or licensed real estate appraiser, as set forth in this chapter.

310-B:5-a Prohibited Conduct. – A person licensed or certified by the board under this chapter, shall, after a hearing, be subject to disciplinary action as provided in RSA 310-B:18 for being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, sexual crimes, drug distribution, arson, physical violence, or any similar offense or offenses; provided that, for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended.

310-B:6 Classes of Licensure or Certification.

I. There shall be the following classifications of real estate appraisers which shall meet the criteria as the board shall require by rules adopted under RSA 541-A:

(a) Apprentice. The apprentice real estate appraiser classification shall consist of those persons who do not meet the requirements under subparagraph (b), (c), or (d), but are in the process of completing the requirements for one of the classifications of a real estate appraiser. Apprentice real estate appraisers shall be required to work under the supervision of a New Hampshire certified appraiser who has been certified for at least 2 years, until the requirements for licensure or certification have been met.

(b) Licensed residential real estate appraiser.

(c) Certified residential real estate appraiser.

(d) Certified general real estate appraiser.

II. The application for original licensure or certification, or renewal licensure or certification shall specify the classification of licensure or certification being applied for or previously granted.

310-B:6-a Criminal History Record Checks.

I. Every applicant for initial licensure shall submit to the board a notarized criminal history record release form, as provided by the New Hampshire division of state police,

department of safety, which authorizes the release of his or her criminal history record, if any, to the board.

II. The applicant shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety. The board shall submit the criminal history records release form and fingerprint form to the division of state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the board may, in lieu of the criminal history records check, conduct the national background check based on personal information.

III. Upon completion of the records check, the division of state police shall release copies of the criminal history records to the board. The board shall maintain the confidentiality of all criminal history records information received pursuant to this section.

IV. The applicant shall bear the cost of a criminal history record check

310-B:7 Examination Requirements. – An original license or certification as a licensed or certified real estate appraiser may be issued to any person who has demonstrated through a proctored written examination process that he or she meets the minimum requirements of the Appraisal Foundation.

310-B:8 Examination Prerequisites. –

I. As prerequisites to taking the examination for certification as a certified general real estate appraiser, an applicant shall present evidence, satisfactory to the board, of having completed the required classroom hours in subjects related to real estate appraisal, including instruction related to the Uniform Standards of Professional Appraisal Practice, from an educational source approved by the board.

II. As prerequisites to taking the examination for certification as a certified residential real estate appraiser, an applicant shall present evidence, satisfactory to the board, of having completed the required classroom hours in subjects related to real estate appraisal, including instruction related to the Uniform Standards of Professional Appraisal Practice, from an educational source approved by the board.

III. As prerequisites to taking the examination for licensure as a licensed residential real estate appraiser, an applicant shall present evidence, satisfactory to the board, of having completed the required classroom hours in subjects related to real estate appraisal, including instruction related to the Uniform Standards of Professional Appraisal Practice, from an educational source approved by the board.

310-B:9 Experience Requirements.

I. An applicant for original licensure or certification as a licensed or certified real estate appraiser shall possess such experience as the board shall require by rules adopted under RSA 541-A. Such rules shall be based upon the criteria established by the Appraisal Qualifications Board of the Appraisal Foundation at the time of the application.

II. Each applicant for license or certification shall furnish a signed, detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the board for examination a sample of appraisal reports which the applicant has prepared in the course of his or her appraisal practice.

310-B:10 Term of Licensure or Certification. All initial licenses or certificates issued by the board

shall expire on the last day of the month of the holder's birth in the year 2 years following the year of issuance. The renewal term of a license or certificate issued under the authority of this chapter shall be 2 years from the date of issuance, and shall expire on the last day of the month of the license or certificate holder's birth. The expiration date of the license or certificate shall appear on the license or certificate and notice of its expiration shall be given to its holder.

310-B:11 Nonresident Licensure or Certification. –

I. Every nonresident applicant for licensure or certification under this chapter shall submit, with the application for licensure or certification, an irrevocable consent that service of process upon him may be made by delivery of the process to the secretary of state if, in an action against the applicant in a court of this state arising out of the applicant's activities as a licensed or certified real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

II. A nonresident who has complied with paragraph I may obtain a license or certificate as a licensed or certified real estate appraiser by conforming to all of the provisions of this chapter relating to licensed or certified real estate appraisers.

310-B:12 Nonresident Licensure or Certification by Reciprocity. An applicant who is licensed or certified under the laws of another state and whose license or certificate is in good standing may obtain a license or certificate as a licensed or certified real estate appraiser in this state.

310-B:12-a Temporary Practice. – After application and payment of fee, the board shall issue a temporary license or certificate to an individual who is either licensed or certified in another jurisdiction if the application complies with rules adopted by the board pursuant to RSA 541-A.

310-B:12-b Registration of Appraisal Management Companies.

I. It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the board under the provisions of this chapter.

(a) An applicant for registration as an appraisal management company in this state shall submit to the board an application on a form or forms prescribed by the board.

(b) In the event a registration process is unavailable upon the effective date of this chapter, an appraisal management company already conducting business in this state may continue to conduct business in accordance with this chapter until the 120th day after a registration process becomes available.

II. An application for the registration required by paragraph I of this section shall include the following information:

(a) Name of the person seeking registration and the fictitious name or names (if any) under which it does business in any state;

(b) Business address of the person seeking registration;

(c) Phone contact information of the person seeking registration;

(d) If the person 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 percent or more of the appraisal management company;
- (f) The name, address, and contact information for one controlling person designated as the main contact for all communication between the appraisal management company and the board;
- (g) A certification that the person has a system and process in place to verify that an individual being added to the appraiser panel of the appraisal management company holds a license in good standing in this state under this chapter if a license or certification is required to perform appraisals;
- (h) A certification that the person requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) including the requirements for geographic and product competence;
- (i) A certification that the person has a system in place to verify that only licensed or certified appraisers are used for federally related transactions;
- (j) A certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the Truth in Lending Act, including the requirement that fee appraisers be compensated at a customary and reasonable rate when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;
- (k) A certification that the person 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;
- (l) An irrevocable uniform consent to service of process, pursuant to RSA 310-B:12-d;
- (m) Any other information required by the board which is reasonably necessary to implement this chapter.

III. An application for the renewal of a registration shall include substantially similar information required for the initial registration as noted in paragraph II, as determined by the board.

IV. A registration granted by the board pursuant to this chapter shall be valid for one year from the date on which it is issued.

310-B:12-c Appraisal Management Company Exemptions.

I. The provisions of this chapter shall not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institutions regulatory agency.

II. The provisions of this chapter shall not apply to a business entity that exclusively engages real estate appraisers on an employer and employee basis or on a subcontractor basis for the performance of all real property appraisal services in the normal course of its business, except to the extent federal law or regulation requires such entities to register with and be subject to supervision by a state appraiser certifying and licensing agency.

310-B:12-d Appraisal Management Company Consent to Service of Process. Each person applying for a registration as an appraisal management company that is not domiciled in this state shall complete an irrevocable uniform consent to service of process, as prescribed by the board.

310-B:12-e Appraisal Management Company Fee.

I. The board shall establish by rule or regulation a processing fee to be paid by each appraisal management company seeking registration under this chapter that is sufficient for the administration of the registration process.

II. A similar processing fee may be charged by the board in connection with the renewal of any registrations.

310-B:12-f Appraisal Management Company Owner Requirements.

I. An appraisal management company applying for registration in this state shall not:

(a) Be owned by any person who has had an appraiser license or certificate in this state or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked, unless such license or certificate was subsequently granted or reinstated;

(b) Be more than 10 percent owned by a person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal, banking, mortgage lending or the provision of financial services, or any crime involving fraud, misrepresentation or moral turpitude.

II. For purposes of subparagraph I(b), each owner of more than 10 percent of an appraisal management company shall submit to a background investigation to be carried out by a law enforcement agency or other entity authorized by the board.

310-B:12-g Appraisal Management Company Designated Contact. Each appraisal management company applying to the board for registration in this state shall designate one controlling person who is an employee of the appraisal management company that will be the designated contact for all communication between the board and the appraisal management company.

310-B:12-h Appraisal Management Company Appraiser Credentials.

I. An appraisal management company that applies to the board for a registration to do business in this state as an appraisal management company shall not:

(a) Knowingly employ any individual to perform appraisal services, who has had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked, unless such license or certificate was subsequently granted or reinstated;

(b) Knowingly enter into any independent contractor arrangement for the performance of appraisal services, in verbal, written, or other form, with any individual who has had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked, unless such license or certificate was subsequently granted or reinstated.

II. Prior to assigning appraisal orders, an appraisal management company shall have a system in place to verify that a person being added to the appraiser panel holds the appropriate appraiser credential in good standing.

III. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis on a form prescribed by the board that the appraisal management company has systems in place to verify that:

(a) An individual on the appraiser panel has not had a license or certification as an appraiser

refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation in the previous 12 months, unless such license or certificate was subsequently granted or reinstated; and

(b) Only licensed or certified appraisers are used to complete appraisal assignments in connection with federally related transactions.

310-B:12-i Appraisal Management Company; Appraisal Review. Any employee of, or independent contractor to, an appraisal management company that performs a USPAP Standard 3 review of an appraisal report on property located in this state shall be an appraiser with the proper level of licensure issued by the board. Quality control examinations are exempt from this requirement as they are not considered a Standard 3 review.

310-B:12-j Appraisal Management Company; Adherence to Standards.

I. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that it requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice including the requirements for geographic and product competence.

II. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that it has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the Truth in Lending Act, including the requirement that fee appraisers be compensated at a customary and reasonable rate when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer.

III. An appraisal management company shall not prohibit an appraiser from reporting the fee paid to the appraiser in the body of the appraisal report, however an appraisal management company may require an appraiser to present any such disclosure in a specified format and location.

310-B:12-k Appraisal Management Company; Recordkeeping. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. Such records must be retained for a period of at least 5 years after an appraisal is completed or 2 years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

310-B:12-l Appraisal Management Company; Appraisal Reports.

I. An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser without the appraiser's written consent, except as necessary to comply with regulatory mandates or legal requirements.

II. An appraisal management company may not use an appraisal report submitted by an independent appraiser, or any of the data or information contained therein, for any purpose other than its intended use without the appraiser's or the intended end user's written consent.

310-B:12-m Appraisal Management Company; Registration Number.

I. The board shall issue a unique registration number to each appraisal management company registered in this state pursuant to this chapter.

II. The board shall maintain a list of the appraisal management companies registered in this state and the registration numbers assigned to such persons.

III. An appraisal management company registered in this state shall disclose the registration number provided to it by the board on the engagement documents presented to an appraiser.

310-B:12-n Appraisal Management Company; Unlawful Acts.

I. It shall be a violation of this chapter for any employee, partner, director, officer, or agent of an appraisal management company to:

(a) Influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or in any other manner, including but not limited to:

(1) Withholding or threatening to withhold timely payment or partial payment for an appraisal with the exception of a substandard or noncompliant appraisal;

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

(3) Promising or implying that an appraiser may be given opportunities for future business, promotions, or increased compensation;

(4) Conditioning an assignment of 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;

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

(6) 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 may be provided; and

(7) Requiring an appraiser to prepare an appraisal report if the appraiser has indicated to the appraisal management company that he or she does not have the necessary expertise for the specific geographic area.

(b) Require an appraiser to indemnify the appraisal management company against liability, damages, losses, or claims other than those liabilities, damages, losses or claims arising out of the services performed by the appraiser, including performance or non-performance of the appraiser's duties and obligations, whether as a result of negligence or willful misconduct.

(c) Submit or attempt to submit false, misleading, or inaccurate information in any application for registration or renewal.

(d) Fail to timely respond to any subpoena or any other legally-binding request for information;

(e) Fail to timely obey a lawful administrative order of the board; or

(f) Fail to fully cooperate in any board investigation.

II. Notwithstanding any other provision in this chapter, an appraisal management company shall not be prohibited from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide additional information concerning the basis for an evaluation; or

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

310-B:12-o Appraisal Management Company; Mandatory Reporting. An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with applicable laws, the Uniform Standards of Professional Appraisal Practice or other ethical or professional requirements in connection with a consumer credit transaction secured by a consumer's principal dwelling, shall refer the matter to the board if the failure to comply is material. For purposes of this section, a failure to comply is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.

310-B:13 Renewal of License or Certificate. –

I. (a) To obtain a renewal license or certificate as a licensed or certified real estate appraiser, the holder of a current, valid license or certificate shall make application and pay the prescribed fee to the board not earlier than 120 days nor later than 30 days before the expiration date of the license or certificate then held. With the application for renewal, the licensed or certified real estate appraiser shall present evidence in the form prescribed by the board of having completed the continuing education requirements for renewal specified in this chapter.

(b) If the board determined that an applicant has failed to meet the requirements for renewal of licensure or certification through mistake, misunderstanding, or circumstances beyond the control of the applicant, the board may extend the term of the certificate for a period not to exceed 6 months, upon payment by the applicant of a prescribe fee for the extension.

(c) If the applicant satisfies the requirements for renewal during the extended term of licensure or certification, the beginning date of the new renewal license or certificate shall be the day following the expiration of the license or certificate previously held by the applicant.

II. [Repealed.]

310-B:13-a Lapse of License. –

I. If a license is not renewed before the expiration date, then the license is deemed to have expired, and a licensee may renew an expired license up to 6 months after its expiration date by complying with the requirements of RSA 310-B:13 and by submitting the required late fee.

II. If an expired license is not renewed within 6 months under paragraph I, then the license is deemed to have lapsed and such person may obtain a license only by qualifying anew as an original applicant. However, the board may renew a lapsed license for good cause shown within a reasonable time not to exceed one year from the date of expiration.

III. If a license expires or lapses as a result of a person being ordered to active duty with the armed forces, the 6-month time period for complying with the requirement of RSA 310-B:13 shall begin upon the licensee's date of discharge or release from active duty, and the late fee shall be waived.

IV. The rights of the licensee under such expired or lapsed license shall be terminated. It shall be unlawful to act or attempt or offer to act in any matter as a real estate appraiser apprentice completing the requirements for licensure or certification, or as a licensed or certified appraiser, under an expired or lapsed license.

310-B:14 Continuing Education. –

I. As a prerequisite to renewal of licensure or certification, a licensed or certified real estate appraiser

shall present evidence satisfactory to the board of having met the continuing education requirements for this chapter.

II. The basic continuing education requirement for renewal of licensure or certification shall be the completion by the applicant, during the immediately preceding term of licensure or certification, of those courses and programs required by the board by rules adopted under RSA 541-A. In adopting such rules, the board shall base its requirements on the criteria established by the Appraisal Qualifications Board of the Appraisal Foundation.

III. In lieu of meeting the requirements of paragraph II, an applicant for relicensing or recertification may satisfy all or part of the requirements by presenting evidence of the following:

(a) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses approved by the board under paragraph II.

(b) Participation other than as a student in educational processes and programs approved by the board which relate to real property appraisal theory, practices or techniques, including, but not necessarily limited to, teaching, program development and preparation of textbooks, monographs, articles, and other instructional materials.

IV. The board shall give favorable consideration to courses of instruction, seminars, and other real property appraisal educational courses or programs previously or hereafter developed by or under the auspices of professional appraisal organizations or other approved educational resources.

V. No amendment or repeal of a rule adopted by the board relative to this section shall operate to deprive a licensed or certified real estate appraiser of credit toward renewal of licensure or certification for any course of instruction completed by the applicant prior to the amendment or repeal of the rule which would have qualified for continuing education credit under the rule as it existed prior to the repeal or amendment.

VI. Licensure or certification as a licensed or certified real estate appraiser that has been revoked as a result of disciplinary action by the board shall not be reinstated unless the applicant presents evidence of completion of the continuing education required by this chapter. This requirement of evidence of continuing education shall not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for licensed or certified real estate appraiser as a condition to reinstatement of licensure or certification.

310-B:15 Principal Place of Business. –

I. Each licensed or certified real estate appraiser shall advise the board of the address of his principal place of business and all other addresses at which he is currently engaged in the business of preparing real estate appraisal reports.

II. Whenever a licensed or certified real estate appraiser changes a place of business, he shall, within 10 days of such change, give written notification of the change to the board and apply for an amended license or certificate.

III. Every licensed or certified real estate appraiser shall notify the board of his or her current residence address and electronic address. Residence addresses and electronic addresses on file with the board are exempt from disclosure as public records.

310-B:16 License or Certificate. –

I. A license or certificate issued under authority of this chapter shall bear the signature of the board

chairperson or a designee who is a member of the board and a license or certificate number assigned by the board.

II. Each licensed or certified real estate appraiser shall place such appraiser's license or certificate number adjacent to or immediately below the appraiser's signature whenever the appraiser's signature is used in an appraisal report or in a contract or other instrument used by the license or certificate holder in conducting real estate appraisal activities.

I. The board shall adopt rules under RSA 541-A which shall establish minimum requirements for the annual registration of appraisal management companies. Such minimum requirements shall include that such companies:

- (a) Register with the board by each January 1 and be subject to supervision by the New Hampshire real estate appraiser board;
- (b) Verify that only licensed or certified appraisers are used for federally related transactions;
- (c) Comply with the Uniform Standards of Professional Appraisal Practice in coordinating appraisals; and
- (d) Conduct appraisals independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the federal Truth in Lending Act.

II. An appraisal management company shall not be registered by the board or included on the national registry if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state. Additionally, each person that owns more than 10 percent of an appraisal management company shall be of good moral character, as determined by the board, and shall submit to a background investigation carried out by the board.

III. The board shall adhere to regulations for the reporting of the activities of appraisal management companies to the Appraisal Subcommittee in determining the payment of the annual registry fee.

IV. The requirements of this section shall take effect to appraisal management companies beginning the later of:

- (a) January 1, 2013; or
- (b) 120 days after the first date on which all rules, forms and policies necessary to implement this chapter have been finalized and made available by the board. No unregistered appraisal management company may perform services related to a federally related transaction in the New Hampshire after January 1, 2013.

310-B:17 Use of Term. –

I. The term "licensed real estate appraiser" or "certified real estate appraiser" may only be used to refer to individuals who hold the license or certificate and may not be used following or immediately in connection with the names or signature of a firm, partnership, corporation, or group; or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license or certificate.

II. No license or certificate shall be issued under the provisions of this chapter to a corporation, partnership, firm or group. This shall not be construed to prevent a licensed or certified real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice.

310-B:17-a – [Repealed] 8/6/12

310-B:17-b – [Repealed] 8/6/12

310-B:18 Disciplinary Proceedings.

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or

(b) Upon written complaint of any person which charges that a person licensed or certified by the board has committed misconduct under paragraph II and which specifies the grounds therefor.

II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(a) Procuring or attempting to procure a license or certificate pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for license or certification or through any form of fraud or misrepresentation.

(b) Failing to meet the minimum qualifications established by this chapter.

(c) Paying compensation, including money or any other thing of value, other than as provided for by this chapter, to any member of or employee of the board to procure a license or certificate under this chapter.

(d) A conviction of a crime which is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others.

(e) An act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the license or certificate holder or another person or with the intent to substantially injure another person.

(f) Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.

(g) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal.

(h) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal, as determined by the board.

(i) Disregarding or violating any of the provisions of this chapter or the rules adopted by the board for the administration and enforcement of this chapter.

(j) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.

(k) Violating the confidential nature of governmental records to which he or she gained access through employment or engagement as an appraiser by a governmental agency.

III. The board, upon making an affirmative finding under paragraph II, may take disciplinary action in any one or more of the following ways:

(a) By written reprimand.

(b) By suspension, refusal to renew, limitation or restriction of a license or certification, or probation for a period of time determined to be reasonable by the board.

(c) By revocation of a license or certificate.

(d) By requiring the person to participate in a program of continuing education in the area or areas in which the person has been found deficient.

(e) By requiring the person to practice under the direct supervision of a licensed appraiser for a period of time specified by the board.

(f) By assessing a fine of not more than \$2,000 per violation or, in the case of a continuing violation, \$100 for each day the violation continues, whichever would be greater.

(g) By taking any combination of the preceding actions, relating to any real estate appraiser, in accordance with the provisions of this chapter.

IV. The board may dismiss a complaint if the investigation shows the allegations to be without basis in law or fact or if the undisputed allegations do not warrant disciplinary proceedings.

310-B:18-a Standards for Professional Conduct. – For purposes of RSA 310-B:18, the Uniform Standards of Professional Appraisal Practice (USPAP) ethical and professional conduct standards in effect at the time of the appraisal assignment shall be the ethical and professional conduct standards to be followed at the time of any violation.

310-B:18-b Reissuance of License or Certification. The board, for reasons it deems sufficient, may reissue a license or certification to any person whose license or certification has been suspended or revoked, provided 4 or more members of the board vote in favor of such reissuance. A new license or certification may be issued, subject to the rules of the board, and a fee shall be assessed for such issuance.

310-B:19 Hearings; Investigations. The board may undertake investigations of allegations of misconduct. The form of an investigation is a matter of discretion of the board. The board shall take no disciplinary action without a hearing. At least 14 days prior to hearing, all parties to a disciplinary proceeding shall be served, either personally or by certified mail, return receipt requested, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints not dismissed by the board within 180 days after the date notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Disciplinary hearings shall be conducted within 180 days of receipt of the complaint before at least 4 members of the board. Written notice of all disciplinary decisions made by the board shall be given to all parties to the proceeding upon their issuance. Orders of the board shall be subject to the contested case provisions of RSA 541-A.

310-B:20 Fees. The board shall establish fees for application, for apprentices, and renewals of apprentice status for licensure or certification, for renewal of licensure or certification under this chapter, for registration and renewal of registration of appraisal management companies, and for transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board budgeted for the biennium in which they apply.

310-B:21 Receipts and Disbursements.

I. The board shall receive and account for all moneys derived under the provisions of this chapter.

Under no circumstances shall the total amount of payments exceed the fees collected under this chapter.

I-a. All moneys collected as administrative penalties through enforcement actions or settlements under this chapter shall be credited to the real estate appraisers fund and disbursed by the board for the investigation of complaints and activities that violate this chapter or rules adopted by the board.

II. The board shall reimburse the general fund for moneys appropriated for the purposes of this chapter as soon as such funds are available.

III. Revenues in excess of budget estimates may be expended with the prior approval of the legislative fiscal committee and the governor and council.

310-B:22 Roster. A roster showing the names, classification and place of business of all real estate appraisers licensed or certified under this chapter, who have paid their annual federal registry fee to the board, shall be submitted annually with the moneys collected to the federal Appraisal Subcommittee. A copy of the roster shall be furnished upon request at a fee established by the board which reflects the direct and incidental costs of making copies.

310-B:23 Retention of Records. –

I. A licensed or certified real estate appraiser shall retain for 5 years, all reports and supporting data assembled and formulated by the appraiser in preparing reports.

II. This 5-year period for retention of records is applicable to each engagement of the services of the appraiser and shall commence upon the date of the submittal of the appraisal to the client unless, within such 5-year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the 5-year period for the retention of records shall commence upon the date of the final disposition of such litigation.

III. All records required to be maintained under the provisions of this chapter shall be made available by the licensed or certified real estate appraiser for inspection and copying by the board, upon a showing of good cause, on reasonable notice to the appraiser.

310-B:23-a Summons; Oaths; Witnesses. –

I. The board shall have the power to administer oaths or affirmations, preserve testimony, subpoena witnesses, and to compel, by subpoena duces tecum, the production of all books, records, files and documents, whether originals, copies, or in electronic or other form, and other materials, relevant to its investigation of any complaint or disciplinary proceeding before the board.

II. The board may issue subpoenas with the approval of the office of the attorney general.

III. A minimum of 10 business days' notice shall be given for compliance with a subpoena under this chapter.

310-B:24 Rulemaking Authority. The board shall adopt rules pursuant to RSA 541-A, relative to:

I. The application procedure and eligibility requirements for the issuance of any initial license or certificate issued under this chapter, including the issuance of such licenses to applicants holding a currently valid license or other authorization to practice in another jurisdiction.

I-a. The application procedure and eligibility requirements for the issuance of any temporary practice permit issued under this chapter.

II. Design and content of all forms required under this chapter.

III. How an applicant shall be examined.

IV. How a license or certificate shall be renewed.

V. Ethical standards required to be met by each holder of a license or certificate issued under this chapter and how such license or certificate may be revoked for violation of these standards.

VI. Establishing all fees required under this chapter, subject to RSA 332-G.

VII. Standards for appraisal education programs and the issuance of evidence indicating satisfactory completion of such program.

VII-a. The registration and supervision of appraisal management companies under RSA 310-B:16-a, including the establishment of fees for annual registration and for renewal of registration.

VIII. The conduct of investigations and procedures for the conduct of hearings consistent with the requirements of RSA 541-A.

VIII-a. Establishing continuing education and experience requirements which comport with criteria set forth by the board.

IX. The requirements for public requests for information.

X. The conditions and requirements for granting a waiver to any rule adopted by the board.

310-B:25 Severability. – If any provisions of this chapter or the application thereof to any person or in any circumstance are held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

Updated 8/5/14

These laws are made available to the public by the

**New Hampshire Joint Board of Licensure and Certification
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Concord, New Hampshire 03301
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