Regular Session, 2012

#### HOUSE BILL NO. 823

#### BY REPRESENTATIVE GREENE

1	AN ACT
2	To amend and reenact R.S. 37:3415.3(B)(10) and (11), 3415.13, and 3415.21 and to enact
3	R.S. 37:3415.2(11), (12), and (13), 3415.3(C) and (D), and 3415.15, relative to real
4	estate appraisals; to define certain terms; to require an appraiser's license to perform
5	appraisal reviews; to provide that administrative reviews of an appraisal do not
6	require an appraiser's license; to require a surety bond; to provide for the competency
7	of appraisers; to provide for customary and reasonable fees for appraisers; to provide
8	for disclosure of fees paid to appraisers by appraisal management companies; to
9	provide for the disclosure of administration fees charged by appraisal management
10	companies; to require that administrative rules receive affirmative approval from the
11	Louisiana Legislature; to repeal an outdated grandfathering clause; to provide for
12	applicability; and to provide for related matters.
13	Be it enacted by the Legislature of Louisiana:
14	Section 1. R.S. 37:3415.3(B)(10) and (11), 3415.13, and 3415.21 are hereby
15	amended and reenacted and R.S. 37:3415.2(11), (12), and (13), 3415.3(C) and (D), and
16	3415.15 are hereby enacted to read as follows:
17	§3415.2. Definitions
18	As used in this Chapter, the following words have the meaning ascribed to
19	them in this Section unless the context clearly indicates otherwise:
20	* * *
21	(11) "Administrative review", "compliance review", "quality check", or
22	"QC" means a process that checks an appraisal report for compliance with the

## Page 1 of 5

1	Uniform Standards of Professional Appraisal Practice or other stipulated
2	requirements.
3	(12) "Appraisal review" means the act or process of developing and
4	communicating an opinion about the quality of another appraiser's work that was
5	performed as part of an appraisal assignment. The term shall not include an
6	examination of an appraisal for grammatical, typographical, mathematical, or other
7	similar administrative errors that do not involve the appraiser's professional
8	judgment, including compliance with the elements of the client's statement of work.
9	(13) "Fee appraiser" means a person who is not an employee of the mortgage
10	loan originator or appraisal management company engaging the appraiser and is one
11	of the following:
12	(a) A state-licensed or certified appraiser who receives a fee for performing
13	an appraisal and certifies that the appraisal has been prepared in accordance with the
14	Uniform Standards of Professional Appraisal Practice.
15	(b) A company not subject to the requirements of §1124 of the Financial
16	Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3331 et
17	seq., that utilizes the services of state-licensed or certified appraisers and receives a
18	fee for performing appraisals in accordance with the Uniform Standards of
19	Professional Appraisal Practice.
20	§3415.3. License required; bond required
21	* * *
22	B. The license required by Subsection A of this Section shall, at a minimum,
23	include the following information:
24	* * *
25	(10) Proof that the entity has obtained and maintains a surety bond that meets
26	the requirements of Subsection D of this Section.
27	(11) An irrevocable Uniform Consent to Service of Process, pursuant to this
28	Chapter.
29	(11) Any other information required by the board.

# Page 2 of 5

1	C.(1) A person who performs an appraisal review for an appraisal
2	management company shall be licensed or certified in Louisiana.
3	(2) An administrative review may be performed by any individual, including
4	a certified appraiser.
5	D.(1) Every applicant for a license or the renewal of a license shall obtain
6	and maintain a surety bond in the amount of twenty thousand dollars. The surety
7	bond shall:
8	(a) Be in the form prescribed by the board pursuant to regulations duly
9	promulgated by it.
10	(b) Accrue to the state for the benefit of a claimant against the registrant to
11	secure the faithful performance of the licensee obligations under this Chapter.
12	(2) The aggregate liability of the surety shall not exceed the principal sum
13	of the bond.
14	(3) A party having a claim against the licensee may bring suit directly on the
15	surety bond, or the board may bring suit on behalf of the party having a claim against
16	the licensee.
17	(4) Consumer claims shall be given priority in recovering from the bond.
10	
18	(5) A deposit of cash or security may be accepted in lieu of the surety bond.
18 19	<ul><li>(5) A deposit of cash or security may be accepted in lieu of the surety bond.</li><li>(6) If a claim reduces the face amount of the bond, the bond shall be</li></ul>
19	(6) If a claim reduces the face amount of the bond, the bond shall be
19 20	(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration.
19 20 21	(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration. * * *
19 20 21 22	(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration. * * * * \$3415.13. Adherence to standards <u>; competency</u>
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> </ol>	<ul> <li>(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration.</li> <li>* * *</li> <li>\$3415.13. Adherence to standards; competency</li> <li><u>A.</u> Each appraisal management company seeking to be licensed in this state</li> </ul>
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ol>	<ul> <li>(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration.</li> <li>* * *</li> <li>\$3415.13. Adherence to standards; competency</li> <li><u>A.</u> Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it has a system in place to review on</li> </ul>
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ol>	<ul> <li>(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration.</li> <li>* * *</li> <li>\$3415.13. Adherence to standards; competency</li> <li><u>A.</u> Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it has a system in place to review on a periodic basis the work of all appraisers that are performing real estate appraisal</li> </ul>
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ol>	<ul> <li>(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration.</li> <li>* * *</li> <li>\$3415.13. Adherence to standards: competency</li> <li><u>A.</u> Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it has a system in place to review on a periodic basis the work of all appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate</li> </ul>
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> </ol>	<ul> <li>(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration.</li> <li>* * *</li> <li>\$3415.13. Adherence to standards: competency</li> <li><u>A.</u> Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it has a system in place to review on a periodic basis the work of all appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of</li> </ul>

1	assignment satisfies each provision of the competency rule of the Uniform Standards
2	of Professional Appraisal Practice for the appraisal being assigned.
3	* * *
4	§3415.15. Fees; customary and reasonable; disclosure
5	A. An appraisal management company shall compensate appraisers at a rate
6	that is customary and reasonable for appraisals being performed in the market area
7	of the property being appraised, consistent with the presumptions of compliance
8	under federal law.
9	B. An appraisal management company shall separately state to the client all
10	of the following:
11	(1) The fees paid to an appraiser for appraisal services.
12	(2) The fees charged by the appraisal management company for services
13	associated with the management of the appraisal process, including procurement of
14	the appraiser's services.
15	C.(1) An appraisal management company shall not prohibit any appraiser
16	who is part of an appraiser panel from recording the fee that the appraiser was paid
17	by the appraisal management company for the performance of the appraisal within
18	the appraisal report that is submitted by the appraiser to the appraisal management
19	company.
20	(2) An appraisal management company shall not include any fees for
21	appraisal management services performed by the company in the amount the
22	company reports as charges for the actual completion of an appraisal by the
23	appraiser.
24	* * *
25	§3415.21. Rulemaking authority; effective date
26	A. The board shall have the power to may adopt any rules and regulations
27	in accordance with the Administrative Procedure Act necessary for the enforcement
28	of this Chapter.
29	B. Notwithstanding any law to the contrary, these rules shall require the
30	affirmative approval by the House of Representatives Committee on Commerce and

# Page 4 of 5

#### **ENROLLED**

1	the Senate Committee on Commerce, Consumer Protection and International Affairs.
2	If the board submits its proposed rules for affirmative approval and the legislature
3	is not in session, the proposed rules shall be deemed affirmatively approved if sixty
4	days have elapsed from the date the proposed rules are received by the oversight
5	committees and no hearing is held by either committee.
6	C. Any appraisal management company doing business in this state at the
7	time of passage of this Act, may continue to perform such services without a license
8	until the earlier of either such time that the rules and regulations pertaining to this
9	Chapter have been approved in accordance with Subsections A and B of this Section
10	<del>or January 1, 2011.</del>
11	Section 2. The provisions of R.S. 37:3415.3(B)(10) and (C) shall apply to any new
12	or renewed license after December 31, 2011, and only upon promulgation of rules by the
13	board concerning the provisions of R.S. 37:3415.3(B)(10) and (C).

### SPEAKER OF THE HOUSE OF REPRESENTATIVES

## PRESIDENT OF THE SENATE

## GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_