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Summary of SB 345
Kansas Appraisal Management Company Registration Act

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February 7, 2012

Senate Bill 345 proposes to require the registration and regulation of appraisal management companies by the Kansas Real Estate Appraisal Board (Board). The bill defines appraisal management companies (AMCs) as entities acting as external third parties authorized to perform appraisal management services 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 when such entity oversees more than 15 licensed Kansas appraisers or more than 25 appraisers licensed in Kansas and another jurisdiction. Appraisal management services consist of administering an appraiser panel, recruiting qualified appraisers, assigning appraisal orders to an appraiser on the panel, tracking such appraisal orders, and submitting completed appraisals to clients.

The bill prohibits any AMC from engaging in appraisal management services without first registering with the board. The registration period runs from October 1st to September 30th of each year. The application for registration is required to include the information set forth in Section 4 of the bill. The following are exempt from the registration requirement: (1) AMCs that are a subsidiary of a financial institution regulated by the federal financial institutions regulatory agency; (2) an AMC that exclusively employs appraisers; and (3) Kansas licensed appraisers actively engaged in the practice of real estate appraisals who have not more than 15 employees who are appraisers.

The fees for registration and renewal of registration are set by the board at an amount not to exceed \$3,500 under Section 8. An initial registration fee may be prorated if the applicant applies with less than 11 months left in the registration period. Late renewal fees may also be charged, but are not to exceed \$500.

Under Section 8, registration fees are deposited in the appraiser fee fund. All civil fines are deposited the state general fund. AMC federal registry fees are deposited into a new state treasury fund called the AMC federal registry clearing fund, which is not subject to limitation by appropriations acts. The bill does not specify what AMC federal registry fees are, or how they are to be collected.

Section 9 of the bill places several limitations on ownership interests in an AMC. No interest in excess of 10% of the AMC may be held by an individual or entity who has had their appraisal credential revoked or suspended, or is otherwise not in good standing. Each individual owning more than 10% interest is required to have good moral character and is required to be fingerprinted and submit to a state and national criminal background check. The AMC is required certify that its ownership meets the requirements of Section 9.

Section 10 requires that one controlling person be designated as the main contact with the Board. Such person is subject to the same requirements as Section 9, including the fingerprint and background check requirements. The Board may collect a fee for fingerprint and background check costs.

Sections 11 through 14 require that an AMC only use Kansas licensed appraisers, and requires the AMC to annually certify that it has a system in place to verify that all appraisers on its panel have a license in good standing and are geographically competent.

Section 15 requires each AMC to annually certify that it has a system in place to perform appraisal reviews on a certain number or percentage of appraisals completed by its appraiser panel.

Section 16 requires each AMC to annually certify that it maintains detailed records of each appraisal service request received by the AMC. The AMC is required maintain such records for a period of 5 years.

Section 17 requires each AMC to have a system in place to ensure that client fees are disclosed to the client. Also, an AMC may not prohibit an appraiser from disclosing the appraiser's fee in an appraisal report submitted to a client.

Section 18 sets forth several acts that are deemed unlawfully under the bill. These acts pertain to influencing the conclusions in an appraisal report through coercion, extortion.

collusion, intimidation, etc. Section 18 also makes it unlawful for an AMC to require an appraiser to indemnify the AMC, or to hire or otherwise contract with an appraiser that is not properly credentialed and in good standing. Section 18 also makes it unlawful to commit unprofessional conduct, to violate any provision of the act, or any order of the Board, or to not fully cooperate in any investigation by the Board. Unlawful acts are subject to both administrative penalties and are a Class C misdemeanor, which is punishable by a \$500 fine and 30 days in jail.

Section 19 provides several practices that an AMC is prohibited from doing in relation to trying to influence the final product of an appraisal report. This includes requiring an appraiser to make certain changes, prohibiting legal communications between the appraiser and others with relevant information, and making any portion of the appraisal fee contingent on the conclusion.

Section 20 requires an AMC to pay an appraiser the agreed to fee within 45 days after completion of the appraisal except for instances of *bona fide* breach of contract by the appraiser. Additionally, Section 21 prohibits an AMC from modifying a completed appraisal or requiring the appraiser's digital signature.

Section 22 requires the Board to assign a unique registration number for each AMC registered under the act, and to post the name of AMCs that have registered on a website maintained by the Board. The AMC is also required to use the identifying number on all documentation used by the AMC for appraisal services.

Section 23 prohibits an AMC from removing an appraiser from the appraiser panel without first notifying the appraiser of the reasons for the removal, providing the appraiser with an opportunity to respond, and notifying the Board if the reason is due to a violation or illegal conduct by the appraiser. There is an exception if the appraiser has been listed for no more than 30 days on the panel.

Sections 24 through 28 pertaining administrative sanctions. The Board may simply deny the application for registration for failure to comply with the act, or for various under other reasons set forth in Section 25. The Board may also impose a civil fine of up to \$2,000 per violation, which could be in addition to, or in lieu of, any other administrative or criminal

penalty. Under Section 28 the costs of any administrative procedure that concludes with a decision that is adverse to the AMC may be charged to the AMC.

Section 30 provides that the act become effective on October 1, 2012. This is the also the beginning fo the registration period in which all AMCs must be registered in order to engage in the business of appraisal management services under the act.