



# LAWS OF ALASKA

2018

**Source**

HCS CSSB 155(L&C) am H

**Chapter No.**

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**AN ACT**

Relating to the registration and regulation of real estate appraisal management companies; relating to the establishment of fees by the Department of Commerce, Community, and Economic Development; relating to the Board of Certified Real Estate Appraisers; relating to real estate appraisers; and providing for an effective date.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1



**AN ACT**

1 Relating to the registration and regulation of real estate appraisal management companies;  
2 relating to the establishment of fees by the Department of Commerce, Community, and  
3 Economic Development; relating to the Board of Certified Real Estate Appraisers; relating to  
4 real estate appraisers; and providing for an effective date.

5

6 \* **Section 1.** AS 08.01.065(c) is amended to read:

7 (c) Except as provided in **(f) - (j)** [(f) - (i)] of this section, the department shall  
8 establish fee levels under (a) of this section so that the total amount of fees collected  
9 for an occupation approximately equals the actual regulatory costs for the occupation.  
10 The department shall annually review each fee level to determine whether the  
11 regulatory costs of each occupation are approximately equal to fee collections related  
12 to that occupation. If the review indicates that an occupation's fee collections and  
13 regulatory costs are not approximately equal, the department shall calculate fee  
14 adjustments and adopt regulations under (a) of this section to implement the

1 adjustments. In January of each year, the department shall report on all fee levels and  
2 revisions for the previous year under this subsection to the office of management and  
3 budget. If a board regulates an occupation covered by this chapter, the department  
4 shall consider the board's recommendations concerning the occupation's fee levels and  
5 regulatory costs before revising fee schedules to comply with this subsection. In this  
6 subsection, "regulatory costs" means costs of the department that are attributable to  
7 regulation of an occupation plus

8 (1) all expenses of the board that regulates the occupation if the board  
9 regulates only one occupation;

10 (2) the expenses of a board that are attributable to the occupation if the  
11 board regulates more than one occupation.

12 \* **Sec. 2.** AS 08.01.065 is amended by adding a new subsection to read:

13 (j) The department shall establish for real estate appraisal management  
14 companies registered under AS 08.87 a registry fee in an amount that equals the  
15 amount determined by the federal Appraisal Subcommittee established under 12  
16 U.S.C. 3310 as a national registry fee for each real estate appraiser of the appraiser  
17 panel of a real estate appraisal management company under 12 U.S.C. 3338 (Title XI,  
18 Financial Institutions Reform, Recovery, and Enforcement Act of 1989), as amended  
19 by 12 U.S.C. 5301 - 5641 (Dodd-Frank Wall Street Reform and Consumer Protection  
20 Act); the department may annually remit fees paid under this subsection to the  
21 Appraisal Subcommittee for participation in the national registry for real estate  
22 appraisal management companies.

23 \* **Sec. 3.** AS 08.87.020 is amended to read:

24 **Sec. 08.87.020. Powers and duties of board.** In addition to the powers and  
25 duties conferred on the board by AS 08.01, the board shall

26 (1) establish the examination specifications for certification as a  
27 general real estate appraiser, as a residential real estate appraiser, and as an  
28 institutional real estate appraiser;

29 (2) adopt rules of professional conduct to establish and maintain a high  
30 standard of integrity in the real estate appraisal profession; [AND]

31 (3) adopt regulations necessary to carry out the purposes of this

1 chapter, including regulations

2 (A) necessary to comply with the requirements of

3 (i) 12 U.S.C. 3331 - 3355 [12 U.S.C. 3331 - 3351]

4 (Title XI, Financial Institutions Reform, Recovery, and Enforcement  
5 Act of 1989), as amended by 12 U.S.C. 5301 - 5641 (Dodd-Frank Wall  
6 Street Reform and Consumer Protection Act); the regulations adopted  
7 by the board under AS 08.87.110, 08.87.120, 08.87.135, 08.87.220, and  
8 08.87.310 may not be more stringent than the corresponding minimum  
9 requirements for receiving approval of the state's program of  
10 certification of real estate appraisers and registration of real estate  
11 appraisal management companies under 12 U.S.C. 3331 - 3355 [12  
12 U.S.C. 3331 - 3351] or other federal law; and

13 (ii) 15 U.S.C. 1639e (Truth in Lending Act);

14 (B) establishing registration procedures and standards for a  
15 real estate appraisal management company; and

16 (C) establishing the standards for the real estate appraisal  
17 management company's appraiser panel, including panel size and  
18 member qualifications; and

19 (4) report relevant information regarding a real estate appraisal  
20 management company's operations, including a disciplinary action under this  
21 chapter or a violation of state or federal law, to the Appraisal Subcommittee  
22 established under 12 U.S.C. 3310.

23 \* **Sec. 4.** AS 08.87.020 is amended by adding a new subsection to read:

24 (b) The board may

25 (1) examine the records of a real estate appraisal management  
26 company operating in the state;

27 (2) require a real estate appraisal management company to submit  
28 reports, information, and documents to the board;

29 (3) investigate alleged violations of this chapter;

30 (4) conduct background investigations as provided in AS 08.87.135(c).

31 \* **Sec. 5.** AS 08.87 is amended by adding new sections to read:

1                   **Article 2A. Real Estate Appraisal Management Companies.**

2                   **Sec. 08.87.130. Registration required.** (a) A person shall register as a real  
3                   estate appraisal management company with the board to perform appraisal  
4                   management services if the person

5                                 (1) provides an appraisal management service

6   (A) to a creditor or secondary mortgage market participant,  
7                   including an affiliate; and

8   (B) in connection with valuing a borrower's principal dwelling  
9                   as security for a consumer credit transaction or incorporating consumer credit  
10                   transactions into a securitization; and

11                                 (2) oversees an appraiser panel.

12                   (b) A person is guilty of a class B misdemeanor if the person engages in  
13                   business as or holds out as a real estate appraisal management company, or performs  
14                   or attempts to perform appraisal management services, at a time when the

15                                 (1) person does not hold a registration issued by the board; or

16                                 (2) registration issued by the board to the person is suspended,  
17                   revoked, lapsed, or surrendered.

18                   **Sec. 08.87.135. Requirements for registration of real estate appraisal**  
19                   **management companies.** (a) The board shall register a real estate appraisal  
20                   management company operating in the state if the company applies on a form  
21                   approved by the board, pays the fee required under AS 08.01.065, and presents  
22                   evidence satisfactory to the board that the company

23                                 (1) has designated a controlling person who will be the main point of  
24                   contact between the board and the company and who meets the requirements under (b)  
25                   of this section;

26                                 (2) has, if the company is not a corporation that is domiciled in this  
27                   state, filed with the department a written consent to service of process on a resident of  
28                   this state for any court action arising from an activity regulated under this chapter or  
29                   12 U.S.C. 3331 - 3355 and provided the name and contact information for the  
30                   company's agent for service of process in this state;

31                                 (3) requires a real estate appraiser to comply with the Uniform

1 Standards of Professional Appraisal Practice adopted by the Appraisal Standards  
2 Board of the Appraisal Foundation when completing appraisals at the company's  
3 request;

4 (4) engages only appraisers who are certified under this chapter;

5 (5) has a process to verify that a person who is assigned to serve on an  
6 appraiser panel of the company

7 (A) is certified under this chapter and maintains a certification  
8 in good standing; and

9 (B) is qualified to conduct federally related transactions under  
10 federal law; in this subparagraph, "federally related transaction" means a real  
11 estate related transaction that involves an insured depository institution  
12 regulated by the United States Comptroller of the Currency, the Board of  
13 Governors of the Federal Reserve System, the Federal Deposit Insurance  
14 Corporation, or the National Credit Union Administration and requires the  
15 services of a real estate appraiser under the interagency appraisal rules;

16 (6) conducts appraisals independently and free from inappropriate  
17 influence and coercion as required under 12 U.S.C. 3353;

18 (7) is not directly or indirectly owned in whole or in part by a person  
19 that has had a certificate to act as a real estate appraiser denied, cancelled, suspended,  
20 revoked, put on probation, or surrendered in lieu of a pending revocation in any state  
21 unless the person has later had a certificate to act as a real estate appraiser granted or  
22 reinstated by the same state;

23 (8) has posted a surety bond in an amount required by the board, not to  
24 exceed \$50,000; and

25 (9) is owned by persons who meet the requirements under (c) of this  
26 section.

27 (b) A controlling person designated under (a) of this section

28 (1) must be actively certified in a state as a real estate appraiser at all  
29 times that the person is designated as a controlling person;

30 (2) may not have had a certificate to act as a real estate appraiser  
31 denied, cancelled, suspended, revoked, put on probation, or surrendered in lieu of a

1 pending revocation in any state unless the person has later had the certificate to act as  
2 a real estate appraiser granted or reinstated; and

3 (3) must be of good moral character.

4 (c) A person who owns at least 10 percent of a real estate appraisal  
5 management company required to be registered under this chapter must be of good  
6 moral character as determined by the board and shall submit to a background  
7 investigation conducted by the board.

8 (d) The board shall provide a copy of a registration under this section to the  
9 Appraisal Subcommittee established under 12 U.S.C. 3310 on a form approved by the  
10 subcommittee.

11 (e) A registration under this section is valid for two years and may be renewed  
12 upon proof of continued compliance with the requirements under (a) - (c) of this  
13 section.

14 **Sec. 08.87.140. Mandatory reporting.** A real estate appraisal management  
15 company or a controlling person, employee, director, officer, or agent of a real estate  
16 appraisal management company that has reasonable cause to believe that a real estate  
17 appraiser has failed to comply with the Uniform Standards of Professional Appraisal  
18 Practice as adopted under 12 U.S.C. 3339 in a manner that materially affects a  
19 valuation appraisal shall report the noncompliance to the board and to the Appraisal  
20 Subcommittee established under 12 U.S.C. 3310.

21 **Sec. 08.87.142. Statement of fees.** (a) When reporting to a borrower, an  
22 appraisal management company shall separately state the fees

23 (1) paid to an appraiser for the completion of an appraisal; and

24 (2) charged to the borrower for appraisal management services by the  
25 appraisal management company.

26 (b) An appraisal management company may not include any fees for appraisal  
27 services listed in (a)(1) of this section as charges for an appraisal management service  
28 listed in (a)(2) of this section.

29 **Sec. 08.87.145. Retention of records and inspection.** A registered real estate  
30 appraisal management company or a real estate appraisal management company that  
31 has applied for registration shall allow the board to inspect and shall retain, for not less

1 than the later of either five years after the date a file is submitted to the company or  
2 two years after final disposition of a related judicial proceeding,

3 (1) copies of all records related to requests for the company's appraisal  
4 management services and the real estate appraisers who perform the appraisals;

5 (2) a written record of all substantive communications between a real  
6 estate appraisal management company registered under this chapter and a real estate  
7 appraiser relating to an appraisal or participation in an appraiser panel.

8 **Sec. 08.87.150. Reporting requirements for federally regulated real estate**  
9 **appraisal management companies.** (a) A real estate appraisal management company  
10 that is owned and controlled by an insured depository institution as defined in 12  
11 U.S.C. 1813 and regulated by the United States Comptroller of the Currency, the  
12 Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance  
13 Corporation, shall annually submit to the board information that the board is required  
14 to submit to the Appraisal Subcommittee established under 12 U.S.C. 3310, including  
15 a

16 (1) report of intent to operate in the state; and

17 (2) disclosure of whether the company is directly or indirectly owned  
18 in whole or in part by any person that has had a certificate to act as a real estate  
19 appraiser denied, cancelled, suspended, revoked, put on probation, or surrendered in  
20 lieu of a pending revocation in any state.

21 (b) If a person has had disciplinary action taken against the person under  
22 (a)(2) of this section, the board shall collect information related to whether the  
23 certificate to act as a real estate appraiser was denied, cancelled, suspended, revoked,  
24 put on probation, or surrendered in lieu of a pending revocation for a substantive cause  
25 and whether the person has later had the certificate to act as a real estate appraiser  
26 reinstated by the same state.

27 **Sec. 08.87.155. Exemptions.** AS 08.87.130 - 08.87.150, 08.87.215, and  
28 08.87.220 do not apply to a

29 (1) person who is employed by a department or division of an entity  
30 that provides appraisal management services only to that entity;

31 (2) real estate appraisal management company that is

1 (A) owned and controlled by an insured depository institution;  
2 and

3 (B) regulated by the Consumer Financial Protection Bureau,  
4 the Federal Housing Finance Agency, the Board of Governors of the Federal  
5 Reserve System, the Federal Deposit Insurance Corporation, the United States  
6 Comptroller of the Currency, or the National Credit Union Administration; or

7 (3) real estate appraiser who enters into an agreement with another real  
8 estate appraiser for the performance of an appraisal that upon completion results in a  
9 report signed by both the real estate appraiser who completed the appraisal and the  
10 real estate appraiser who requested completion of the appraisal.

11 \* **Sec. 6.** AS 08.87 is amended by adding new sections to article 3 to read:

12 **Sec. 08.87.215. Prohibited practices; real estate appraisal management**  
13 **companies.** (a) A real estate appraisal management company may not, while  
14 registered in the state, retain or enter into a business relationship with an employee,  
15 contractor, or agent whose certificate to act as a real estate appraiser is denied,  
16 cancelled, suspended, revoked, put on probation, or surrendered in lieu of a pending  
17 revocation in any state unless the employee, contractor, or agent has later had a  
18 certificate to act as a real estate appraiser granted or reinstated by the same state.

19 (b) A real estate appraisal management company or a controlling person,  
20 employee, director, officer, or agent of a real estate appraisal management company  
21 may not

22 (1) seek to influence a real estate appraiser through intimidation,  
23 coercion, extortion, or bribery;

24 (2) condition payment of an appraisal fee on a real estate appraiser's  
25 opinion, conclusion, or valuation;

26 (3) request that a real estate appraiser report a predetermined opinion,  
27 conclusion, or valuation;

28 (4) alter, amend, or change an appraisal report submitted by a real  
29 estate appraiser without the real estate appraiser's written consent;

30 (5) require a real estate appraiser to sign an indemnification agreement  
31 for a claim that does not arise from a service performed by the real estate appraiser;

1 (6) prohibit an appraiser from recording in the body of the report  
2 submitted by the appraiser to the appraisal management company the fee that the  
3 appraiser was paid by the company for the performance of the appraisal;

4 (7) prohibit lawful communication between a real estate appraiser and  
5 any other person who the real estate appraiser determines possesses information  
6 relevant to the appraisal;

7 (8) engage in an act or practice with intent to impair a real estate  
8 appraiser's independence, objectivity, and impartiality;

9 (9) knowingly make a false statement, submit false information, or fail  
10 to provide complete information in response to a question in an application for  
11 registration or renewal of a registration; or

12 (10) violate this chapter or a regulation adopted under this chapter.

13 **Sec. 08.87.220. Disciplinary proceedings; real estate appraisal**  
14 **management companies.** The board may take disciplinary action under AS 08.01.075  
15 or suspend or revoke a registration of a real estate appraisal management company if it  
16 finds that the

17 (1) company or a controlling person, employee, director, officer, or  
18 agent of a real estate appraisal management company has violated a provision of this  
19 chapter or a regulation adopted by the board under this chapter;

20 (2) company or a controlling person of the company has had a  
21 certificate to act as a real estate appraiser or a registration as a real estate appraisal  
22 management company denied, cancelled, suspended, revoked, put on probation, or  
23 surrendered in lieu of a pending revocation in any state;

24 (3) company fails to comply with the Uniform Standards of  
25 Professional Appraisal Practice under 12 U.S.C. 3339;

26 (4) company performs appraisal management services in a manner that  
27 causes injury or loss to the public;

28 (5) company has ceased to operate in the state as a real estate appraisal  
29 management company; or

30 (6) company used fraud, deception, misrepresentation, or bribery in  
31 securing a registration under this chapter.

1 \* **Sec. 7.** AS 08.87.900 is amended by adding new paragraphs to read:

2 (14) "appraisal management services" includes the performance of any  
3 of the following functions on behalf of a lender, financial institution, or other person:

4 (A) administration of an appraiser panel;

5 (B) recruitment, retention, or selection of real estate appraisers  
6 for the performance of appraisal services;

7 (C) contracting with real estate appraisers to perform  
8 appraisals;

9 (D) review of a completed appraisal before the delivery of the  
10 appraisal or review assignment to the person that ordered the appraisal;

11 (15) "appraiser panel" means a group of licensed or certified real estate  
12 appraisers who perform appraisals as independent contractors for a real estate  
13 appraisal management company;

14 (16) "borrower" means a person who applies for a mortgage loan;

15 (17) "company" means a real estate appraisal management company  
16 required to register under AS 08.87.130 that performs appraisal management services;

17 (18) "controlling person" means a person who

18 (A) owns more than 10 percent of a real estate appraisal  
19 management company;

20 (B) is an officer or director of a real estate appraisal  
21 management company;

22 (C) is employed and authorized by a real estate appraisal  
23 management company to enter into a contractual relationship with another  
24 person for the performance of appraisal management services or with a real  
25 estate appraiser to perform an appraisal; or

26 (D) has the authority to direct the management or policies of a  
27 real estate appraisal management company;

28 (19) "principal dwelling" means a residential structure or mobile home  
29 that contains one to four units but does not include a vacation or second home unless  
30 the borrower buys or builds a new dwelling that will become the primary location that  
31 the borrower inhabits within a year after the purchase or completion of construction.

1       \* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3           APPLICABILITY. (a) This Act applies to a person offering or engaged in providing  
4 appraisal management services for an appraisal on or after the effective date of secs. 1 - 7 of  
5 this Act. In this subsection, "appraisal management services" has the meaning given in  
6 AS 08.87.900.

7           (b) Notwithstanding the effective date of sec. 5 this Act, the Department of  
8 Commerce, Community, and Economic Development and the Board of Certified Real Estate  
9 Appraisers may not enforce the registration requirement under AS 08.87.130, added by sec. 5  
10 of this Act, until March 1, 2019.

11       \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13           TRANSITION: REGULATIONS. The Department of Commerce, Community, and  
14 Economic Development and the Board of Certified Real Estate Appraisers may adopt  
15 regulations necessary to implement the changes made by this Act. The regulations take effect  
16 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law  
17 implemented by the regulation.

18       \* **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).

19       \* **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect January 1, 2019.