GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2011 REGULAR SESSION

HOUSE BILL NO. 288

AS ENACTED

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ELAINE N. WALKER
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY L. Adler

1 AN ACT relating to real estate appraisal management companies.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO

4 READ AS FOLLOWS:

5 ***As used in Sections 1 to 8 of this Act, unless the context otherwise requires:***

6 ***(1) "Appraisal management company" means a person who performs the actions***

7 ***necessary to administer a network of state-licensed appraisers to fulfill requests***

8 ***for appraisal management services on behalf of a client, including but not limited***

9 ***to the following actions:***

10 ***(a) Recruiting appraisers;***

11 ***(b) Contracting with appraisers to perform appraisal services;***

12 ***(c) Collecting fees from clients;***

13 ***(d) Negotiating fees with appraisers or reimbursing appraisers for appraisal***

14 ***services;***

15 ***(e) Receiving appraisal orders and appraisal reports;***

16 ***(f) Submitting appraisal reports received from appraisers to the company's***

17 ***clients;***

18 ***(g) Reviewing or verifying appraisal reports; or***

19 ***(h) Managing the process of having an appraisal performed, including***

20 ***providing related administrative and clerical duties;***

21 ***(2) "Appraisal management services" means conducting business by telephone, by***

22 ***electronic means, by mail, or in person, directly or indirectly for compensation or***

23 ***other pecuniary gain or in the expectation of compensation or other pecuniary***

24 ***gain to:***

25 ***(a) Solicit, accept, or offer to accept a request for appraisal services; or***

26 ***(b) Employ or contract with a licensed or certified appraiser to perform***

27 ***appraisal services;***

1 *(3) "Appraisal services" means the practice of developing an opinion of the value of*
2 *real estate in conformity with the minimum USPAP standards;*
3 *(4) "Appraiser" means an individual licensed by the board who, for a fee or other*
4 *consideration, develops and communicates a real estate appraisal or otherwise*
5 *gives an opinion of the value of real estate or any interest in real estate in*
6 *conformity with the minimum USPAP standards;*
7 *(5) "Appraiser panel" means a group of independent appraisers who have been*
8 *selected by an appraisal management company to perform appraisal services for*
9 *the appraisal management company;*
10 *(6) "Board" means the Kentucky Real Estate Appraisers Board established by KRS*
11 *324A.015;*
12 *(7) "Client" means a person that contracts with or otherwise enters into an*
13 *agreement with an appraisal management company for the performance of*
14 *appraisal services;*
15 *(8) "Controlling person" means an individual employed, appointed, or authorized by*
16 *an appraisal management company to contract with clients or independent*
17 *appraisers for the performance of appraisal services;*
18 *(9) "Managing principal" has the same meaning as "controlling person";*
19 *(10) "Registrant" means an appraisal management company or person that is*
20 *registered or seeking registration under Section 2 of this Act; and*
21 *(11) "USPAP" means the Uniform Standards of Professional Appraisal Practice.*
22 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO
23 READ AS FOLLOWS:
24 *(1) A person shall not act or offer to act as an appraisal management company or*
25 *perform appraisal management services within the Commonwealth unless*
26 *registered by the board.*
27 *(2) To be registered by the board, a person shall make written application to the*

1 *board, submit to a criminal history check as provided in subsection (3) of this*
2 *section, pay a fee established by the board, and post a surety bond as provided in*
3 *Section 3 of this Act. The written application shall include the following*
4 *information:*
5 *(a) The name, street address, and telephone contact information of the person*
6 *seeking registration;*
7 *(b) 1. If the registrant is a domestic organization, the designation of an*
8 *agent for service of process; or*
9 *2. If the registrant is a foreign organization, documentation that the*
10 *foreign organization is authorized to transact business in the*
11 *Commonwealth and has appointed an agent for service of process by*
12 *submitting a copy of:*
13 *a. The registrant's filing with the Secretary of State appointing an*
14 *agent for service of process; and*
15 *b. A certificate of authority issued by the Secretary of State.*
16 *A foreign organization's failure to comply with this paragraph*
17 *may result in rejection of the application;*
18 *(c) The name, residential street address, and contact information of any person*
19 *who owns ten percent (10%) or more of the appraisal management*
20 *company for which registration is being requested;*
21 *(d) The name, residential street address, and contact information of a*
22 *controlling person or managing principal;*
23 *(e) A certification that the registrant:*
24 *1. Has a system and process in place to verify that any person being*
25 *added to the appraiser panel of the appraisal management company,*
26 *or who may be used by the appraisal management company to*
27 *otherwise perform appraisals, holds a license in good standing in this*

1 *state under this chapter;*
2 *2. Has a system and process in place to review the work of all appraisers*
3 *that are performing appraisal services for the appraisal management*
4 *company on a periodic basis to ensure that the appraisal services are*
5 *being conducted in accordance with the minimum USPAP standards;*
6 *and*
7 *3. Maintains a detailed record of each request for appraisal services that*
8 *it receives and the appraiser that performs the appraisal services for*
9 *the appraisal management company;*
10 *(f) A certification from the registrant and any partner, member, manager,*
11 *officer, director, managing principal, controlling person, or person*
12 *occupying a similar status or performing similar functions, or person*
13 *directly or indirectly controlling the registrant that:*
14 *1. The application for registration when filed or after filing contains no*
15 *statement that, in light of the circumstances under which it was made,*
16 *is false or misleading with respect to a material fact;*
17 *2. The person certifying has not violated or failed to comply with Section*
18 *3, 4, or 5 of this Act;*
19 *3. The person certifying and each person who owns ten percent (10%) or*
20 *more of the registrant has not pled guilty or nolo contendere to or*
21 *been found guilty of:*
22 *a. A felony; or*
23 *b. Within the past ten (10) years, a misdemeanor involving*
24 *mortgage lending or real estate appraising, or an offense*
25 *involving breach of trust or fraudulent or dishonest dealing;*
26 *4. The person certifying is not permanently or temporarily enjoined by a*
27 *court of competent jurisdiction from engaging in or continuing any*

1 *conduct or practice involving appraisal management services or*
2 *operating an appraisal management company;*
3 *5. The person certifying is not the subject of an order of the board or any*
4 *other state's appraisal management company regulatory agency*
5 *denying, suspending, or revoking the person's privilege to operate as*
6 *an appraisal management company; and*
7 *6. The person certifying has not acted as an appraisal management*
8 *company while not properly registered by the board; and*
9 *(g) Any other information required by the board.*
10 *(3) The board shall require a national and state criminal background check on the*
11 *person certifying under subsection (2)(f) of this section and each person who*
12 *owns ten percent (10%) or more of the registrant under the following*
13 *requirements:*
14 *(a) The person certifying and each person who owns ten percent (10%) or more*
15 *of the registrant shall provide his or her fingerprints to the Department of*
16 *Kentucky State Police for submission to the Federal Bureau of*
17 *Investigation after a state criminal background check is conducted;*
18 *(b) The results of the national and state criminal background check shall be*
19 *sent to the board; and*
20 *(c) Any fee charged by the Department of Kentucky State Police and the*
21 *Federal Bureau of Investigation shall be an amount no greater than the*
22 *actual cost of processing the request and conducting the check.*
23 *(4) The board shall issue a certificate of registration to a registrant authorizing the*
24 *registrant to act or offer to act as an appraisal management company in this state*
25 *upon:*
26 *(a) Receipt of a properly completed application;*
27 *(b) Payment of the required fee;*

1 *(c) Posting of the required bond; and*
2 *(d) A determination by the board that:*
3 *1. The registrant has not had a previous registration suspended or*
4 *revoked; and*
5 *2. The activities of the applicant shall be directed and conducted by*
6 *persons who:*
7 *a. Have not had a previous registration suspended or revoked;*
8 *b. Have not pled guilty or nolo contendere to or been found guilty*
9 *of a felony; or*
10 *c. Within the past ten (10) years have not pled guilty, pled nolo*
11 *contendere to, or been found guilty of a misdemeanor involving*
12 *mortgage lending or real estate appraising or an offense*
13 *involving a breach of trust or fraudulent or dishonest dealing.*
14 *(5) (a) If the board finds that there is substantial reason to deny the application for*
15 *registration, the board shall notify the registrant that the application has*
16 *been denied and shall afford the registrant an opportunity for a hearing*
17 *before the board to show cause why the registration should not be denied.*
18 *(b) All proceedings concerning the denial of a certificate of registration shall be*
19 *conducted in accordance with KRS Chapter 13B.*
20 *(c) The acceptance by the board of an application for registration does not*
21 *constitute the approval of its contents or waive the authority of the board to*
22 *take disciplinary action under Section 7 of this Act.*
23 *(6) (a) Registrations issued under this section shall be renewed annually.*
24 *(b) Renewal shall occur on October 31 of each year.*
25 *(c) If the initial registration occurs less than six (6) months before October 31,*
26 *the renewal shall not be required until October 31 of the following year, and*
27 *shall then be renewed on October 31 of each year thereafter.*

1 *(7) (a) Failure to renew a registration in a timely manner shall result in a loss of*
2 *authority to operate.*
3 *(b) A request to reinstate a certificate of registration shall be accompanied by*
4 *payment of a penalty of fifty dollars ($50) for each month of delinquency,*
5 *up to six (6) months after expiration.*
6 *(c) After six (6) months' delinquency, a new application for registration shall*
7 *be required.*
8 *(8) The board shall promulgate administrative regulations to establish standards for*
9 *the operation of appraisal management companies and for the implementation*
10 *and enforcement of Sections 1 to 8 of this Act.*
11 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO
12 READ AS FOLLOWS:
13 *(1) The board shall promulgate administrative regulations establishing a reasonable*
14 *filing fee to be paid by each appraisal management company seeking registration*
15 *under Section 2 of this Act. The filing fee shall include the annual fee for*
16 *inclusion in the national registry maintained by the Appraisal Subcommittee of*
17 *the Federal Financial Institutions Examination Council.*
18 *(2) In addition to the filing fee, each applicant for registration shall post and*
19 *maintain a surety bond with the board. The surety bond shall:*
20 *(a) Be established by the board through administrative regulation but shall not*
21 *exceed five hundred thousand dollars ($500,000);*
22 *(b) Be in the form prescribed by the board; and*
23 *(c) Accrue to the state for the benefit of any claimant against the registrant to*
24 *secure the faithful performance of the registrant's obligations.*
25 *The aggregate liability of the surety bond shall not exceed the principal sum of*
26 *the surety bond.*
27 *(3) A party having a claim against the registrant may bring suit directly against the*

1 *surety bond, or the board may bring suit on behalf of the party having a claim*
2 *against the registrant.*
3 *(4) Consumer claims shall be given priority in recovering from the surety bond.*
4 *(5) If a claim reduces the face amount of the bond, the bond amount shall be*
5 *annually restored upon renewal of the registrant's registration.*
6 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO
7 READ AS FOLLOWS:
8 *(1) A registrant that is an organization shall:*
9 *(a) Maintain a registered agent for service of process; and*
10 *(b) Provide to the board the information required by the Secretary of State*
11 *concerning the organization's agent for service of process. If changes are*
12 *made to the information required by the Secretary of State, the changes*
13 *shall be provided to the board within five (5) business days.*
14 *(2) A registrant shall maintain, or cause to be maintained, complete records of*
15 *requests for appraisal services referred to an appraiser licensed or certified by the*
16 *board, including without limitation records pertaining to the acceptance of fees*
17 *from clients and payments to appraisers. The board may inspect records, without*
18 *prior notice, periodically, or if the board determines that the records are pertinent*
19 *to an investigation of a complaint against a registrant.*
20 *(3) A registrant shall designate a controlling person or managing principal*
21 *responsible for ensuring compliance with this section.*
22 *(4) (a) The registrant shall file a form with the board:*
23 *1. Documenting the identity of the person designated as the controlling*
24 *person or managing principal; and*
25 *2. Certifying the individual's acceptance of the responsibility of a*
26 *controlling person or managing principal.*
27 *(b) The registrant shall submit a new form to the board within five (5) business*

1 *days after a change in its controlling person or managing principal.*
2 *(c) An individual registrant who operates as a sole proprietorship is deemed the*
3 *managing principal under this section.*
4 *(5) A registrant shall make and keep its accounts, correspondence, memoranda,*
5 *papers, books, and other records in accordance with administrative regulations*
6 *promulgated by the board. All records shall be retained for five (5) years unless*
7 *the board establishes a different, longer retention period for particular types of*
8 *records.*
9 *(6) The registrant shall disclose, on all invoices, purchase orders, or other documents*
10 *establishing work to be performed for or compensation due from its clients,*
11 *itemized actual fees paid to any third party for services performed, including*
12 *appraisal services, for the client through contract with or arrangement through*
13 *the registrant. The disclosure shall include:*
14 *(a) The name of the third party performing the service, including a licensed*
15 *appraiser performing appraisal services;*
16 *(b) The nature of the service and itemized fees paid to the third party for*
17 *appraisal services or any other services performed; and*
18 *(c) Itemized fees or charges received by the registrant for appraisal*
19 *management services.*
20 *If the disclosure made becomes inaccurate because of changes to services*
21 *requested or performed, a revised or amended disclosure shall be provided by the*
22 *end of the next business day after the change to services has been performed, and*
23 *the revised or amended disclosure shall be clearly marked as revised or amended*
24 *and contain sufficient information for the client to identify the original disclosure*
25 *referenced.*
26 *(7) The provisions of this section do not exempt the registrant from any other*
27 *reporting requirements contained within any federal or state law.*

1 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO
2 READ AS FOLLOWS:
3 *(1) An employee, director, officer, or agent of an appraisal management company or*
4 *any other third party acting as a joint venture partner with or as an independent*
5 *contractor for an appraisal management company shall not improperly influence*
6 *or attempt to improperly influence the development, reporting, result, or review of*
7 *a real estate appraisal, including but not limited to the use of intimidation,*
8 *coercion, extortion, bribery, blackmail, threat of nonpayment or withholding*
9 *payment for appraisal services, or threat of exclusion from future appraisal work.*
10 *(2) The registrant shall not:*
11 *(a) Request, allow, or require an appraiser to collect any portion of the fee*
12 *charged by the appraisal management company, including the appraisal*
13 *fee, from a borrower, homeowner, or other third party;*
14 *(b) Require an appraiser to provide the registrant with the appraiser's digital*
15 *signature or seal;*
16 *(c) Alter, amend, or change an appraisal report submitted by a licensed or*
17 *certified appraiser, by the following or any other actions:*
18 *1. Removing the appraiser's signature;*
19 *2. Adding or removing information to or from the appraisal report; or*
20 *3. Altering the final value opinion reported by an appraiser;*
21 *(d) Remove an appraiser from an appraiser panel without prior written notice*
22 *to the appraiser. An appraiser may only be removed from an appraiser*
23 *panel with written notice for:*
24 *1. A violation of the minimum USPAP standards or other applicable*
25 *statutes or administrative regulations resulting in a suspension or*
26 *revocation of the appraiser's license in Kentucky; or*
27 *2. Other substandard or otherwise improper performance as may be*

1 *determined by administrative regulations promulgated by the board;*
2 *(e) Enter into contracts or agreements with an appraiser for the performance*
3 *of appraisal services unless the appraiser is licensed or certified in good*
4 *standing with the board;*
5 *(f) Request that an appraiser provide an estimated, predetermined, or desired*
6 *valuation in an appraisal report or provide estimated values or comparable*
7 *sales at any time before the appraiser completes an appraisal report;*
8 *(g) Provide to an appraiser an anticipated, estimated, encouraged, or desired*
9 *value for a property or a proposed or target amount to be loaned or*
10 *borrowed, except that a copy of the sales contract for purchase transactions*
11 *may be provided;*
12 *(h) Commit an act or practice that impairs or attempts to impair an appraiser's*
13 *independence, objectivity, or impartiality; or*
14 *(i) Have a direct or indirect interest, financial or otherwise, in the property or*
15 *transaction involving the appraisal.*
16 *(3) Subsection (1) of this section shall not prohibit an appraisal management*
17 *company from requesting that an appraiser:*
18 *(a) Provide additional information about the basis for a valuation;*
19 *(b) Correct objective factual errors in an appraisal report; or*
20 *(c) Provide further detail, substantiation, or explanation for the appraiser's*
21 *value conclusion.*
22 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO
23 READ AS FOLLOWS:
24 *(1) The executive director of the board shall keep a register of all applicants for*
25 *registration which shall include:*
26 *(a) The date of the application;*
27 *(b) The applicant's name;*

1 *(c) The applicant's business address; and*

2 *(d) The current status of the registration.*

3 *(2) The register shall be prima facie evidence of all matters contained in the register.*

4 *(3) The register shall be kept on file in the office of the board and shall be open for*

5 *public inspection in accordance with KRS 61.870 to 61.884.*

6 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO

7 READ AS FOLLOWS:

8 *(1) The board may deny, suspend, revoke, or refuse to issue or renew the registration*

9 *of an appraisal management company, or may restrict or limit the activities of an*

10 *appraisal management company or of a person who owns an interest in or*

11 *participates in the business of an appraisal management company if the board*

12 *finds that any of the following circumstances apply to the applicant, a registrant,*

13 *a person owning ten percent (10%) or more of the applicant or registrant, a*

14 *partner, member, manager, officer, director, managing principal, controlling*

15 *person, a person occupying a similar status or performing similar functions, or a*

16 *person directly or indirectly controlling the applicant or registrant:*

17 *(a) The application for registration contained a statement that in light of the*

18 *circumstances under which it was made is false or misleading with respect*

19 *to a material fact;*

20 *(b) The person has violated or failed to comply with Section 2, 3, 4, or 5 of this*

21 *Act or failed to comply with administrative regulations promulgated by the*

22 *board for the implementation and enforcement of Sections 1 to 8 of this*

23 *Act;*

24 *(c) The person has pled guilty or nolo contendere to or has been found guilty of*

25 *a felony or, within the past ten (10) years, a misdemeanor involving*

26 *mortgage lending or real estate appraising or an offense involving a breach*

27 *of trust or fraudulent or dishonest dealing;*

1 *(d) The person is permanently or temporarily enjoined by a court of competent*
2 *jurisdiction from engaging in or continuing any conduct or practice*
3 *involving appraisal management services or operating an appraisal*
4 *management company;*
5 *(e) The person is the subject of an order of the board or any other state's*
6 *appraisal management company regulatory agency denying, suspending, or*
7 *revoking the person's privilege to operate as an appraisal management*
8 *company;*
9 *(f) The person acted as an appraisal management company while not properly*
10 *registered by the board; or*
11 *(g) The person failed to pay the proper filing or renewal fee as provided under*
12 *Sections 2 and 3 of this Act.*
13 *(2) Upon its own motion or the written complaint of a person reporting a violation of*
14 *subsection (1) of this section, and after notice and the opportunity for a hearing*
15 *in accordance with KRS Chapter 13B, the board may:*
16 *(a) Suspend or revoke the registration of a registrant;*
17 *(b) Impose a fine not to exceed five thousand dollars ($5,000) per violation; or*
18 *(c) Take other appropriate disciplinary actions as established by the board*
19 *through promulgation of administrative regulations.*
20 *(3) The board may appear in its own name in Franklin Circuit Court, or the Circuit*
21 *Court of the county where the alleged violation occurred, to obtain injunctive*
22 *relief to prevent a person from violating Section 3, 4, 5, or 7 of this Act. The*
23 *Circuit Court may grant a temporary or permanent injunction regardless of*
24 *whether:*
25 *(a) Criminal prosecution has been or may be instituted as a result of the*
26 *violation; or*
27 *(b) The person is the holder of a registration issued by the board.*

1 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO
2 READ AS FOLLOWS:
3 *Unless otherwise required to be registered as an appraisal management company, by*
4 *state or federal law Sections 1 to 8 of this Act shall not apply to:*
5 *(1) The federal government, state government, any county or municipal government,*
6 *or any agency or instrumentality thereof;*
7 *(2) A person authorized to engage in business as, or as a subsidiary of, a bank, credit*
8 *union, or savings and loan association under the laws of the United States, the*
9 *Commonwealth of Kentucky, or any other state;*
10 *(3) A real estate broker or real estate agent properly licensed or otherwise authorized*
11 *to do business in the Commonwealth of Kentucky;*
12 *(4) An officer or employee of any entity listed in subsection (1), (2), or (3) of this*
13 *section when acting within the scope of his or her employment;*
14 *(5) An entity that is responsible for ensuring that the real estate appraisal activity*
15 *being performed by an employee is performed in accordance with applicable*
16 *appraisal standards;*
17 *(6) An individual who:*
18 *(a) Is an appraiser; and*
19 *(b) In the normal course of business enters into an agreement, whether written*
20 *or otherwise, with another appraiser for the performance of a real estate*
21 *appraisal activity that the individual cannot complete for any reason,*
22 *including:*
23 *1. Competency;*
24 *2. Workload;*
25 *3. Schedule; or*
26 *4. Geographic location;*
27 *(7) An individual who:*

1 *(a) In the normal course of business enters into an agreement, whether written*
2 *or otherwise, with an appraiser for the performance of real estate appraisal*
3 *activity; and*
4 *(b) Under the agreement cosigns the report of the appraiser performing the real*
5 *estate appraisal upon completion of the real estate appraisal activity; or*
6 *(8) An appraisal management company that contracts with one (1) or more*
7 *appraisers for the performance of fewer than ten (10) appraisals in this state in a*
8 *calendar year.*
9 ➔Section 9. This Act shall be known as the Kentucky Appraisal Management
10 Company Registration Act.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 3-16-11