

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 597**

SENATORS BOSO AND SYPOLT, *original sponsors*

[Passed March 7, 2019; in effect 90 days from passage]



1 AN ACT to amend and reenact §30-38A-7, §30-38A-12, and §30-38A-17 of the Code of West  
2 Virginia, 1931, as amended, all relating to conforming the state law to the federal law for  
3 appraisal management companies' registration; expanding certification requirements;  
4 changing requirements for removing appraiser from panel; and imposing disciplinary  
5 action reporting requirement.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 38A. APPRAISAL MANAGEMENT COMPANIES REGISTRATION ACT.**

**§30-38A-7. Certification requirements.**

1 (a) The certification for registration shall be in writing, on a form prescribed by the board  
2 and signed by the applicant or controlling person. The certification shall include statements that  
3 the applicant:

4 (1) Has a process in place to verify that any person used as an appraiser or added to the  
5 appraiser panel of the applicant is a licensed or certified appraiser in good standing in West  
6 Virginia;

7 (2) Has set requirements to verify that appraisers are geographically competent and can  
8 perform the appraisals assigned;

9 (3) Has set procedures for an appraiser, licensed or certified in this state or in any state  
10 with a minimum of the same certification level for the property type as the appraiser who  
11 performed the appraisal, to review the work of the appraisers performing appraisals for the  
12 applicant to verify that the appraisals are being conducted in accordance with the minimum  
13 Uniform Standards of Professional Appraisal Practice (USPAP) standards;

14 (4) Will require appraisals to be conducted independently and free from inappropriate  
15 influence and coercion as required by the appraisal independence standards established under  
16 Section 129E of the Truth in Lending Act and the rules and regulations issued pursuant to the  
17 Act, including the requirement that appraisers be compensated at a customary and reasonable

18 rate when the appraisal management company is providing services for a consumer credit  
19 transaction secured by the principal dwelling of a consumer;

20 (5) Maintains a detailed record of each request for appraisal it receives from a client and  
21 the appraiser that performs the appraisal; and

22 (6) Has submitted any other information required by the board.

23 (b) The applicant, each owner, and any controlling person shall submit a written  
24 verification, on a form prescribed by the board, that includes statements that:

25 (1) The written application and verification for registration contain no false or misleading  
26 statements;

27 (2) The applicant has complied with the requirements of this article;

28 (3) The applicant, each owner, and the controlling person of the firm seeking registration  
29 has not pleaded guilty or nolo contendere to or been convicted of a felony;

30 (4) Within the past 10 years, the applicant, each owner, and the controlling person of the  
31 firm seeking registration has not pleaded guilty or nolo contendere to or been convicted of:

32 (A) A misdemeanor involving mortgage lending or real estate appraisals; or

33 (B) An offense involving breach of trust or fraudulent or dishonest dealing;

34 (5) The applicant, each owner, and the controlling person of the firm seeking registration  
35 are of good character and reputation and that none of them has had a license or certificate to act  
36 as an appraiser refused, denied, canceled, revoked, or surrendered in this state or any other  
37 jurisdiction, and the license or certification was not subsequently granted or reinstated;

38 (6) The applicant, each owner, and the controlling person of the firm seeking registration  
39 are not permanently or temporarily enjoined by a court of competent jurisdiction from engaging in  
40 or continuing any conduct or practice involving appraisals, appraisal management services, or  
41 operating an appraisal management company;

42 (7) The applicant, each owner, and the controlling person of the firm seeking registration  
43 are not the subject of an order of the board or any other jurisdiction's agency that regulates

44 appraisal management companies that denied, suspended, or revoked the applicant's or firm's  
45 privilege to operate as an appraisal management company;

46 (8) The applicant, each owner, and the controlling person of the firm seeking registration  
47 have not acted as an appraisal management company while not being properly registered by the  
48 board; and

49 (9) Set forth any other requirements of the board.

**§30-38A-12. Requirements for removal from an appraiser panel.**

1 (a) An appraisal management company may only remove an appraiser from an appraiser  
2 panel or refuse to assign appraisals to an appraiser after providing the appraiser 20 days' prior  
3 written notice stating the reasons for the removal or refusal and providing an opportunity for the  
4 appraiser to be heard.

5 (b) An appraiser who is removed from an appraiser panel or refused appraisal  
6 assignments for an alleged act or omission that would constitute grounds for disciplinary action  
7 under the provisions of §30-38-12 of this code, a violation of the Uniform Standards of  
8 Professional Appraisal Practice (USPAP), or a violation of state law or legislative rule may file a  
9 complaint with the board for a review of the appraisal management company's decision.

10 (c) The board's review under this subsection is limited to determining whether:

11 (1) The appraisal management company has complied with subsection (a) of this section;  
12 and

13 (2) The appraiser has engaged in an act or omission that would constitute grounds for  
14 disciplinary action under the provisions of §30-38-12 of this code, or has committed a violation of  
15 the USPAP or a violation of state law or legislative rule.

16 (d) The board shall hold a hearing on the complaint within a reasonable time, not  
17 exceeding six months after the complaint was filed, unless there are extenuating circumstances  
18 that are noted in the board's minutes.

19 (e) If the board determines after the hearing that an appraisal management company  
20 acted improperly, then the board shall order the appraisal management company to restore the  
21 appraiser to the appraiser panel or assign appraisals to the appraiser.

22 (f) After the board's order, an appraisal management company may not:

23 (1) Reduce the number of appraisals given to the appraiser; or

24 (2) Penalize the appraiser in any other manner.

**§30-38A-17. Notice and hearing procedures.**

1 (a) The board, on its own motion or upon receipt of a written complaint, may investigate  
2 an appraisal management company, a person or firm associated with an appraisal management  
3 company, or a person or firm performing appraisal management services.

4 (b) If the board determines after the investigation there are grounds for disciplinary action,  
5 the board may hold a hearing after giving 30 days' prior notice.

6 (c) The board has the same powers set out in §30-38-1 *et seq.* of this code.

7 (d) After notice and a hearing, the board may:

8 (1) Deny, revoke, or refuse to issue or renew the registration of an appraisal management  
9 company or restrict or limit the activities of an appraisal management company or of a person or  
10 firm that owns an interest in or participates in the business of an appraisal management company;

11 (2) Impose a fine not to exceed \$25,000 for each violation; or

12 (3) Take other disciplinary action as established by the board by rule.

13 (e) The board may seek injunctive relief in the Kanawha County Circuit Court to prevent a  
14 person or firm from violating the provisions of this article or the rules promulgated hereunder. The  
15 circuit court may grant a temporary or permanent injunction.

16 (f) Within five days of a final disciplinary action, the board will report any action taken to  
17 the Appraisal Subcommittee of the Federal Financial Institutions Examination Council via its  
18 extranet application.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

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*Governor*