
Auditor's Summary

Sunset Evaluation: Regulation of Appraisal Management Companies

Report No. 23-01



Although registration of appraisal management companies does not comply with the State's policy for professional and vocational regulation, public interest likely justifies continued regulation.

REGULATION OF APPRAISAL MANAGEMENT COMPANIES (AMCs) is set to “sunset,” or cease, on June 30, 2023. Chapter 26H-5, Hawai'i Revised Statutes (HRS), requires the Auditor to assess professions and vocations set to “sunset” to determine whether the current regulation complies with the State's policy for professional and vocational licensing as expressed in the Hawai'i Regulatory Licensing Reform Act. The statute also requires the Auditor to assess whether the law establishing the regulatory program should be reenacted, modified, or permitted to expire, and evaluate the effectiveness and efficiency of the regulatory program.

In Report No. 23-01, *Sunset Evaluation: Regulation of Appraisal Management Companies*, we conclude that the Hawai'i Regulatory Licensing Reform Act does not support the regulation of AMCs. AMCs are not a “profession” or “vocation” but are organizations whose business is to assist lenders in retaining appraisers. In addition, the work performed by AMCs does not reasonably affect the health, safety, or welfare of consumers of services provided by these companies.

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What are Appraisal Management Companies?

AMCs ARE NOT APPRAISERS, but companies that serve an intermediate role between lenders and appraisers. AMCs assist lenders in obtaining appraisals by providing appraisal management services, which include contracting with licensed appraisers to perform appraisal assignments and managing the process of having an appraisal performed.

Hawai'i's AMC registration program applies to companies that oversee an appraisal panel of more than 15 appraisers in a state, or 25 appraisers in two or more states. If an AMC meeting this size threshold is not registered, they may not directly or indirectly engage or attempt to engage in business as an AMC, perform appraisal management services, or advertise or hold oneself out as engaging in or conducting business as an AMC.

Act 118, Session Laws of Hawai'i 2017, codified as Chapter 466L, HRS, established the Appraisal Management Company Registration Program (AMC registration program) to conform with the *Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203* (Dodd-Frank Act) requirements related to the regulation of AMCs. The Dodd-Frank Act required, among other things, federal regulatory agencies to establish minimum requirements for state registration and supervision of AMCs. While states were not required to enact AMC registration and supervision, if a state failed to do so by August 10, 2018, certain AMCs would be barred from providing appraisal management services for federally related transactions in the state.

Criteria not met

The Hawai'i Regulatory Licensing Reform Act, Chapter 26H, HRS, sets out the State's policy regarding the regulation of *professions and vocations*. AMCs are business entities, not professions or vocations; therefore, the State's policy with respect to professional and vocational licensing does not support regulation of AMCs.

We also considered whether the work performed by AMCs reasonably affects the health, safety, or welfare of consumers of that work, which is the threshold requirement for professional and vocational regulation in Hawai'i. In the context of the State's policy, we do not interpret "consumers" to mean the general public – i.e., home buyers who have applied for a loan through a financial institution that requires an appraisal report. Given the nature of appraisal management services provided by AMCs, consumers of these services are lending institutions, and regulation is not necessary to protect the public health, safety, or welfare.

Public interest may require regulation of AMCs be reenacted

Section 466L-1, HRS, states that regulation of AMCs reflects the Legislature's position that it was necessary to create a regulatory framework for AMCs in accordance with the Dodd-Frank Act.

Currently, all 50 states and the District of Columbia have opted to create an AMC registration program. Hawai'i would be the only state without an AMC registration program if Chapter 466L, HRS, is not reenacted. There are likely other consequences for AMCs contracted to perform appraisals in Hawai'i should the AMC registration program be allowed to expire. AMCs in a state that has not adopted regulation under the Dodd-Frank Act may be barred from providing appraisal management services for some federally related transactions.

From the limited information about AMCs noted above, including the 2017 Legislature's finding that a large source of Hawai'i's funding for residential mortgage loans are from outside Hawai'i, we believe the public interest likely supports continuing the AMC registration program.