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February 6, 2012

The Honorable Pete Brungardt  
Chair, Federal & State Affairs Committee  
300 SW 10th  
Topeka, KS 66612-1504

**Re: Senate Bill 345 – Kansas Appraisal Management Company Registration Act**

Dear Senator Brungardt:

The Appraisal Institute (AI) strongly supports Senate Bill (SB) 345 – the Kansas Appraisal Management Company Registration Act – which has been put forth by the Committee on Financial Institutions and Insurance. We encourage you, and your fellow committee members, to support SB 345 when it is heard by the Federal & State Affairs Committee on Tuesday, February 7, 2012. SB 345 is the culmination of a year-long effort on the part of the Kansas Real Estate Appraiser Board, the Kansas chapters of the Appraisal Institute, Kansas Association of Realtors, Kansas Bankers' Association, and others, to develop a consensus bill that all parties could support.

AI is a global membership association of professional real estate appraisers with nearly 23,000 members in nearly 60 countries throughout the world. Our mission is to advance professionalism and ethics, global standards, methodologies, and practices through the professional development of property economics worldwide. The majority of Appraisal Institute members are practicing real estate appraisers and property analysts who provide valuation-related services to such clients as mortgage lenders, financial institutions, government agencies, attorneys, accountants and financial planners as well as homeowners and other individual consumers.

SB 345 promotes public trust and consumer protection, and establishes oversight and enforcement where there is none today. When enacted, the provisions of SB 345 will help to protect lenders, financial institutions, clients, consumers, and the public from interference with the independence, objectivity, and impartiality of the real estate process. SB 345 will also help to ensure that the appraisals utilized by lenders to make underwriting decisions for mortgage loans will be completed by qualified and competent appraisers and will be of the highest quality possible.

Appraisal management companies (AMCs) are business entities that administer networks of independent appraisers to fulfill real estate appraisal assignments on behalf of lenders and other clients. The AMC recruits, qualifies, verifies licensure, negotiates fees paid to the appraisers, and service level expectations with a network of third-party appraisers who complete the appraisal assignments. The AMC is also responsible for certain tasks

associated with the collateral valuation process, including appraisal review, quality control, market value dispute resolution, warranty administration, and record retention.

The implementation of robust appraiser independence standards, with strict prohibitions on mortgage loan originator ordered appraisals, and requirements for the strict separation of the appraisal ordering function from loan production staff within lending institutions, has resulted in a much larger role for AMCs in the collateral valuation process and significant growth in the AMC industry. However, the tremendous growth in the AMC industry over the last several years has not been without problems for appraisers.

Of particular concern to appraisers is the widespread “cramdown” of appraisal fees. AMCs market their services to lenders by stating that they will lower the lender’s backroom costs. How can they do this? Simply put, they do this on the backs of local appraisers who are forced to accept significant reductions in market appraisal fees, while a large percentage of a borrower’s application fee goes to the AMC as a “management fee”. This scheme is so profitable that some lenders have created their own captive AMCs which turn a profit from what used to be an internal underwriting expense.

As of today, AMCs operating in Kansas, which control tens of thousands of appraisal assignments each year, are not required to register with any government agency, and are not subject to any state or federal regulation. SB 345 would enact a reasonable registration and regulatory structure for AMCs operating in Kansas. Of particular importance is the fact that the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 mandates that states adopt registration and regulatory requirements for AMCs within approximately three years.

As currently drafted, SB 345 would:

- Require AMCs operating in Kansas that order appraisals to register with the Kansas Real Estate Appraisers Board;
- Prohibit AMCs from being owned and/or managed by individuals who have had an appraiser license or certification denied, refused, cancelled or revoked in any state, unless that license or certificate has been subsequently reinstated;
- Require the identification of a “controlling person” for each AMC that will serve as the main point of contact for the Board;
- Require AMCs to have systems in place to: 1) verify that they only utilize licensed or certified appraisers; and 2) ensure that all appraisals are in compliance with the Uniform Standards of Professional Appraisal Practice;
- Enact requirements that ensure that appraisers are free from coercion or inappropriate influence from AMCs, including provisions that prohibit an AMC

from withholding payment to an appraiser that doesn't hit a predetermined property value;

- Prohibit the alteration of appraisal reports by AMCs;
- Provide for the adjudication of disputes between AMCs and independent appraisers; and
- Establish violations and penalties.

While we strongly support SB 345 in its current form, we would respectfully suggest the following modifications:

1. AMCs should be required to post a surety bond that protects both the state (in the case of unpaid fees, fines, etc. as well as appraisers who have performed services for an AMC but have not received payment. Addition of the following language to Section 4 (c) (and renumber accordingly) of SB 345 would accomplish this:

“(c) An applicant for issuance of a registration as an appraisal management company pursuant to this chapter shall file with the Board a surety bond with one or more corporate sureties authorized to do business in this state in an amount that is not less than one-hundred and fifty percent (150%) of the average amount of the billings of the appraisal management company in the state during the previous twelve month period.”

2. The following language should be added to Section 4(b)(12):

“...established under Section 129E of the truth in lending act, including the requirements for the payment of a reasonable & customary fee, as specified in subsection (a) of section 18”

We appreciate this opportunity to provide written comments regarding this bill. If you should have any questions, please do not hesitate to contact Scott DiBiasio, Appraisal Institute Manager of State Affairs at (202) 298-5593 or [sdibiasio@appraisalinstitute.org](mailto:sdibiasio@appraisalinstitute.org).

Sincerely,

Appraisal Institute

Cc: Members of the Federal & State Affairs Committee