

## **Notice of Proposed Action**

### **Title 10: Bureau of Real Estate Appraisers**

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers (“Bureau” or “BREA”) is proposing to take the action described in the informative digest below.

#### **PUBLIC HEARING**

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

#### **COMMENT PERIOD**

Written comments including those sent by mail or email to the address listed under “Contact Person” in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on March 10, 2020.

#### **AVAILABILITY OF MODIFICATIONS**

The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comment related to this proposal or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Authority vested by Sections 11313 and 11314 of the Business and Professions Code and to implement, interpret and make specific sections 11345.3, 11345.4, 11345.45, 11345.6, and 11345.8, Business and Professions Code; Appraisal Subcommittee Policy Statement 8; 12 C.F.R. sections 1102.402 and 1102.403; and section 1090.5, Civil Code, the Bureau is considering revising section 3577 and 3582 of Title 10 of the California Code of Regulations as described in this Notice.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Federal statutes, regulations, and Appraisal Subcommittee (ASC)<sup>1</sup> policy statements prohibit an Appraisal Management Company (AMC) from being registered if the AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause. Further, federal statutes, regulations, and ASC policy statements require AMCs to submit a national registry fee each year. Currently, the Bureau does not prohibit an AMC from registering if in whole or in part, directly or indirectly, it is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause. The Bureau also does not have a process for AMCs to submit the national registry fee. This regulation would resolve the inconsistency with federal law by prohibiting AMCs from registering if ineligible individuals own the AMC and by establishing a national registry fee form titled Appraisal Management Company National Registry Fee form REA 5030 (Rev. 1/1/19). The Bureau will also add a \$110 fee to process the form to compensate the Bureau for its processing costs. Federal compliance will ensure AMCs can continue to operate in California.

## **INCORPORATION BY REFERENCE**

The Bureau seeks to incorporate by reference Appraisal Management Company National Registry Fee form REA 5030 (Rev. 1/1/19).

## **ANTICIPATED BENEFITS**

It will align California regulations with federal requirements to ensure AMCs can continue to operate in California and be on the national registry.

- **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:** The proposed regulations will continue lender, appraiser, and consumer access to AMCs who facilitate appraisals for home purchases. This will ensure the home purchases can continue uninterrupted.

## **CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations, the Bureau has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

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<sup>1</sup> The ASC was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI). Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States for licensing appraisers and registering AMCs to ensure compliance with Title XI.

## **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: It is estimated that the proposed fee will result in an increase in the Bureau's revenue by \$26,400 beginning in 2020-21 and ongoing.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to, or mandate imposed on, any Local Agency or School District for Which Government Code Section 17500-17630 Require Reimbursement: None

Business Impact: The Bureau has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The national registry fee was established by the ASC and the fee is collected by the Bureau as a pass through to the ASC. The national registry fee is \$25 per panel member. All AMCs must have at least 15 panel members to qualify as an AMC. Thus, the minimum national registry fee will be  $15 \times \$25 = \$375$ . Currently, the Bureau does not know how many panel members AMCs maintain. Thus, the Bureau is unable to determine the costs to AMCs beyond the minimum cost of \$375.

The Bureau is also imposing a \$110 state processing fee to reimburse the Bureau for its costs associated with processing the new form. The \$110 fee is the cost the Bureau anticipates incurring to process the fee, which includes maintaining the database. The Bureau recognizes this will impact AMC businesses, but does not believe it will be significant as it is a relatively low yearly cost. This is based on feedback received from AMCs.

The Bureau is not changing the processing fee for appraisers which is set at \$25. The Bureau is merely specifying the fee will remain the same for appraisers and will set a \$110 fee for AMCs.

Cost Impact on Representative Private Person or Business: The proposed regulations will impact AMC businesses with the payment of the registry fee and Bureau processing fee. However, the Bureau does not anticipate the impact to be significant.

Effect on Housing Costs: None

Effect on Small Businesses: The proposed regulations will impact AMC businesses with the payment of the registry fee and Bureau processing fee. However, the Bureau does not anticipate the impact to be significant.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

**Impact on Jobs/Businesses:** The Bureau has determined this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of business in the State of California. This is because the new fees are likely not substantial enough to impact the number of AMCs or the number of appraisers hired by AMCs.

**Benefits of Regulation:** The Bureau has determined this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment. It will align California regulations with ASC requirements to ensure AMCs can continue to operate in California and be on the national registry. It will also continue lender, appraiser, and consumer access to AMCs who can facilitate appraisals for home purchases.

## **CONSIDERATION OF ALTERNATIVES**

The Bureau must determine that no reasonable alternative considered by the Bureau or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above mentioned hearing.

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Bureau has prepared an initial statement of reasons which contains the purpose, rationale, and necessity for the proposed action.

The proposed text, this notice, the statement of reasons, and any other relevant documents are on the Bureau's website at [www.brea.ca.gov](http://www.brea.ca.gov). Click the "Laws & Enforcement" tab at the top of the page. Under the heading "Rulemaking Notifications" find the documents associated with this rulemaking subject: "Federal Compliance."

## **AVAILABILITY AND LOCATON OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. As of the date this notice is published in the Notice of Register, the rulemaking file consists of this notice, the proposed text of the regulation and the initial statement of reasons. Copies may be obtained by contacting person named below or by accessing the website as provided above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing, if requested, and considering all timely and relevant comments received, BREa may adopt the proposed regulation substantially, as described in this notice. If BREa makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before BREa adopts the regulations as revised. Please send requests for copies of any modified regulation to the attention of the contact person named below. BREa will accept written comments on the modified regulation for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the person named below.

### **CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Kyle Muteff, Legal Counsel  
3075 Prospect Park Drive, Suite 190  
Rancho Cordova, CA 95670  
Phone: 916-341-6126  
kyle.muteff@brea.ca.gov

The backup person is:  
Mary Ann Lopez  
3075 Prospect Park Drive, Suite 190  
Rancho Cordova, CA 95670  
Phone: 916-440-7876  
Maryann.lopez@brea.ca.gov