

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 10. INVESTMENT
CHAPTER 6.5
BUREAU OF REAL ESTATE APPRAISERS

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Controlling Person

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers (hereafter Bureau or BREa) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

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 the interested person's 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.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Bureau at its office no later than 5:00 pm on Tuesday, July 11, 2023**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 11314 of the Business and Professions Code (BPC) and to implement, interpret, or make specific BPC sections 11302, 11343, and 11345.2 the Bureau is considering amending section 3576 of title 10 of the California Code of Regulations (CCR). 12 C.F.R. section 34.214(a)(1)).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Bureau of Real Estate Appraisers (Bureau) regulates appraisers and Appraisal Management Companies (AMC). The Appraisal Subcommittee (ASC) provides federal oversight of all State appraiser and appraisal management company regulatory programs.

The ASC monitors State Appraiser and AMC Programs for compliance with Title XI of the Financial Institutions Reform Recovery and Enforcement Act (Title XI). The monitoring of state programs is largely accomplished through on-site visits known as a

Compliance Review (Review). The ASC conducted its most recent Review of the Bureau in 2018, at which time it found the Bureau was not compliant with the Code of Federal Regulations (CFR) as it relates to AMC ownership limitations. (Page 3, ASC Compliance Review of California's Appraisal Management Company (AMC) Regulatory Program dated January 17, 2019).

“An AMC shall not be registered or included on the AMC National Registry if such 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. The State limits the requirement to owners of 10% or more.”

The Bureau proposes to clarify AMC ownership requirements in CCR Section 3576 to ensure the Bureau remains in compliance with federal rules regarding AMCs.

Anticipated Benefits of Proposal

The proposal will align California regulations with federal requirements to ensure California addresses the good moral character of all owners of AMCs, not just those who qualify as “controlling persons” as defined by California. Any owner of a registered AMC in California, regardless of ownership percentage, must report certain discipline and felony conduct to the Bureau within a prescribed period. This will benefit the health and welfare of Californians by ensuring only AMC owners of good moral character are registered in California.

Consistency and Compatibility with Existing State Regulations

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

FISCAL IMPACT ESTIMATES

The proposed regulation is anticipated to increase workload and costs to the Bureau.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposed regulation is anticipated to increase workload and costs to the Bureau, but such anticipated increase is limited and is absorbable.

The Bureau estimates up to 6 additional AMC registrants will be required to report to the Bureau, as specified, per year, which will result in workload costs of \$750 (6 applicants @ \$125 per applicant) in year-one of implementation and up to approximately \$8,600 over a ten-year period.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS:

BUSINESS IMPACT ESTIMATES

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.

Registrants are anticipated to comply with the regulations within normal business operations without incurring additional costs.

Impact on Jobs / Businesses

The Bureau has determined that this regulatory proposal will not have any significant impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Benefits of the Regulation

As stated above, the proposed regulation will benefit the health and welfare of Californians by ensuring that only AMC owners of good moral character are registered in California. The proposed regulations are not expected to affect worker safety or the state's environment.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Bureau. The regulations expand existing reporting requirements for AMCs, as specified.

Effect on Small Business

The Bureau has determined that the proposed regulations may affect small businesses.

Registrants are anticipated to comply with the regulations within normal business operations without incurring additional costs

Cost Impact on Representative Private Person or Business

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Registrants are anticipated to comply with the regulations within normal business operations without incurring additional costs

Significant Effect on Housing Costs: None

CONSIDERATION OF ALTERNATIVES:

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; as effective and less burdensome to affected private persons than the proposal described in this Notice; 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 submit comments to the Bureau in writing relevant to the above determinations at 3075 Prospect Park Drive, Suite 190, Rancho Cordova, CA 95670, or via e-mail to the Contact Person listed below.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau at 3075 Prospect Park Drive, Suite 190, Rancho Cordova, CA 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own review or at the request 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS 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.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Whitney Spatz
Address: Bureau of Real Estate Appraisers
3075 Prospect Park Drive, Suite 190
Rancho Cordova, CA 95670.
Telephone No.: (916) 610-9927
Email: whitney.spatz@brea.ca.gov

The backup contact person is:

Name: Mary Ann Lopez
Address: Bureau of Real Estate Appraisers
3075 Prospect Park Drive, Suite 190
Rancho Cordova, CA 95670.
Telephone No.: (916) 440-7876
Email: Maryann.Lopez@brea.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Actions, the Initial Statement of Reasons, and the text of the regulations, as well as the Final Statement of Reasons when completed and text modified from the original proposed text, if any, can be accessed through the Bureau's website at <https://www.brea.ca.gov/html/Rulemaking.html>.