

### **Key Points about HB 1033:**

1. The *Dodd-Frank Act* (signed into law in July 2010) requires all states, including South Dakota, to pass legislation to “register” and “supervise” Appraisal Management Companies (AMCs). To date, about two dozen states have already completed this requirement.
  - a. This is similar to the mandate of Title XI of FIRREA (‘Savings and Loan Bailout Bill’) in 1989 when the states were required to pass legislation to license and supervise the activities of real estate appraisers.
  - b. This is similar to the mandate of the Title V of the Housing and Economic Recovery Act of 2008, also called the SAFE Act, when the states were required to pass legislation to license and supervise mortgage loan originators and mortgage brokers.
2. The rapid growth of AMCs during 2008 and 2009 was fueled by NY Attorney General Cuomo’s Home Valuation Code of Conduct (HVCC) which required separation between loan originators and appraisers to avoid another mortgage meltdown. Unfortunately, AMCs sprang up so quickly that most have operated since inception without regulatory oversight at the federal or state level.
3. Most AMCs operating in South Dakota are not regulated – almost all are out-of-state companies. The principals of these companies have not undergone background checks that are common in all other regulated professions in the state. **South Dakota homeowners and buyers have no recourse if an AMC harms them in their efforts to sell, acquire, or refinance their home.** South Dakota’s licensed real estate brokers and licensed/certified appraisers have no recourse if these primarily out-of-state AMCs engage in unprofessional conduct.
4. The advent of AMCs operating in South Dakota appears to have cost the state significantly in *decreased sales tax revenue collections*.
  - a. When an out-of-state AMC orders an appraisal, the appraiser no longer collects and remits South Dakota sales tax on that appraisal fee. Instead, the out-of-state AMC is supposed to pay an equivalent ‘use tax’ to the state of South Dakota. However, only one other state besides South Dakota collects sales tax on real estate appraisal services, so most out-of-state AMCs don’t know about this requirement. Since they are unregulated in South Dakota, the Department of Revenue and Regulation has no way to know which AMC companies are operating in SD – thus, they have no way to audit or ensure that the AMCs are paying use tax to the state.
  - b. An informal survey of members of the Professional Appraisers Association of South Dakota (PAASD) indicates that SD residential appraisers remitted between \$700 and \$1,200 **less in SD sales tax collections in 2010 due directly to the involvement of out-of-state AMCs.** With 380 licensed/certified appraisers in SD, the loss in sales tax revenue is significant. It is unknown if the out-of-state AMCs are paying the required use tax to make up for this deficit, but many AMCs appear not to even know of the requirement in SD.
5. HB 1033 constructs a regulatory structure for AMCs that is similar to that already in place in South Dakota for appraisers, real-estate brokers, surveyors, home inspectors, title insurance companies, etc. The Department of Revenue and Regulation is granted rule-making authority and the ability to register, supervise, and discipline AMCs.