



# nerej

## Highlights of H.R. 1728 Appraisal Provisions

December 30, 2009 - Northern New England

- \*Requires written appraisal on all "subprime mortgages" (Section 601).
- \*Requires second appraisal for loans sold within 180 days with no charge incurred by applicant (Section 601).
- \*Clarifies that licensing and certification are minimum requirements (Section 601).
- \*Provides copy of appraisal within 3 written days of closing to applicant (Section 601).
- \*Clarifies that the appraisal report is for the sole use of the creditor and that the applicant can choose to have a second appraisal conducted at their own expense (Section 601).
- \*Violations of the applicant notification are subject to a \$2,000 penalty (Section 601).
- \*Requires that extension of credit adhere to appraisal independence standards (Section 602).
- \*Adds "withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered to the list of unfair and deceptive practices supporting appraisal independence (Section 602).
- \*Adds consumers to the list of entities that are allowed to ask an appraiser to consider additional comparables provide further detail or correct errors (Section 602).
- \*Adds conflict of interest section regarding appraiser interest in dwelling (Section 602).
- \*Requires mandatory referral of USPAP violations by all parties in the transaction to applicable state appraisal board (Section 602).
- \*Prohibits extension of credit by creditor who knows about a violation of the appraisal independence standard unless the creditor it has acted with reasonable diligence to determine the appraisal does not misstate or misrepresent the value (Section 602).
- \*Requires regulations to be prescribed within 180 days of enactment with an effective date of no later than 1 year (Section 602).
- \*Requires the rulemaking procedures establishing the appraisal independence standards to include the \$10,000 penalty for violations of appraisal independence standard and \$20,000 where civil penalties have been imposed (Section 602).

### Amendments to Title XI of FIRREA

- \*Adds a consumer protection mandate to the list of functions of the Appraisal Subcommittee (Section 603).
- \*In determining whether the threshold levels (de minimis) provide reasonable protections to consumers, the bill requires the federal bank regulators consult with consumer groups and convene a public hearing (Section 603).
- \*Adds the Federal Housing Finance Agency (FHFA), as the seventh member of the board of the Appraisal Subcommittee (Section 603).
- \*Requires the Appraisal Subcommittee to release an annual report, detailing actions taken to achieve compliance (Section 603)

- \*When prescribing regulations under the bill, the Appraisal Subcommittee shall add lenders and consumer advocates to the list of entities to be included on an advisory committee of industry participants that meet as necessary to support development of regulations (Section 603).
  - \*Authorizes the Appraisal Subcommittee additional regulatory authority to impose interim sanctions and suspensions against a state appraiser regulatory agency (Section 603)
  - \*Authorizes the Appraisal Subcommittee to make grants to state appraiser regulatory agencies to support the effort in complaint investigation, enforcement and the submission of data on licensed or certified appraisers and appraisal management companies to the national appraisal registry (Section 603).
  - \*To provide for this additional grant making authority, the national registry fees, currently set at \$25 with a \$50 cap, would be able to go to \$40 with an \$80 cap (Section 603).
  - \*Clarifies that all appraisals performed within a state shall be prepared by appraisers licensed or certified from that state (Section 603).
  - \*Makes it clear that only certified or licensed appraisers may perform appraisal review functions (Section 603).
  - \*To promote greater professionalism and advanced training within the appraisal industry, the Kanjorski amendment codifies language now found in the GSE selling guides to allow for the consideration when making appraisal assignments of education achieved, sample appraisals, references, experience, and membership in a nationally recognized professional appraisal organization, but lack of such membership shall not be the sole bar against consideration for an appraisal assignment. (Section 603).
  - \*Authorizes the establishment of minimum standards on Automated Valuation Models to ensure a highly level of confidence in quality, to protect against manipulation and conflict of interest (Section 603).
  - \*Requires the development and enforcement of rules by Federal financial institutions regulators and the Appraisal Subcommittee (Section 603).
  - \*Regarding the Independent Valuation Protection Institute established under the Home Valuation Code of Conduct, if no national hotline exists to receive complaints about non-compliance with appraisal independence standards within one year of enactment, the Appraisal Subcommittee is required to put in place a national hotline, which shall consist of a toll-free phone number and e-mail address. The Appraisal Subcommittee must refer complaints received by the national hotline to the appropriate State or Federal regulator, or other appropriate legal authorities (Section 603).
- Appraisal Management Companies
- \*Requires the ASC to maintain a national registry of AMCs subject to supervision of state appraisal boards (Section 603).
  - \*Defines an AMC as a third party entity which oversees 15 contractors in a state or 25 nationally in a given year (Section 603).
  - \*Requires minimum qualifications of AMC to be established by the AQB, which shall include
    - \* Registration with state appraisal boards
    - \* Verification that only licensed/certified appraisers are used for FRTs
    - \* Ensuring that all appraisals are prepared in accordance with USPAP
    - \* Ensuring that all appraisals are prepared independently and free of influence (in accordance with the new appraisal independence standard) (Section 603).
  - \*Prohibits registration of AMCs if such company is owned by any person who has had a license

refused, denied, cancelled or revoked in any state. Additionally, each person that owns more than 10% of an AMC shall submit to a background investigation carried out by the state appraisal board. (Section 603).

\*Prohibits AMCs from performing activities in federally related transactions after 36 months of enactment if the AMC is not registered by the appropriate state appraisal board (Section 603).

\*Adds to the duties of state appraiser licensing agencies to include registration and supervision of appraisal management companies (Section 603)

#### Broker Price Opinions

\*Broker Price Opinions cannot be used as the primary basis to determine the value of real property for the purpose of a loan origination of a consumer's primary dwelling (Section 603).

#### Appraisal Studies

\*Calls for the Comptroller General to conduct a comprehensive study on possible improvements in the appraisal process, including all existing appraisal exemptions, including the de minimus. Additionally, the study shall examine the quality of BPOs, AVMs, licensed appraisals and certified appraisals (Section 604).

\*Calls for a study on the impact of the HVCC on small businesses and the quality of appraisals. (Section 604).