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H.R. 4173 - A step in the right direction

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The time period of 2005 through 2007 are embedded in my mind as the giddy years of the financial industry - a time when many participants were intoxicated with the prospect of making a profit and caution was thrown to the wind. The fallout unfolded in the Great Recession characterized by high unemployment rates, tightening of credit, a volatile stock market, and falling real estate values. In response to this crisis, to which no one is immune, congress recently passed the Dodd-Frank Wall St. Reform and Consumer Protection Act, also known as H.R. 4173.

President Obama signed H.R. 4173 into law on July 21st. This bill is comprehensive legislation to overhaul regulations in the financial sector. It establishes a new Consumer Financial Protection Agency to regulate products like home mortgages, car loans and credit cards, gives the Treasury Department new authority to place non-bank financial firms, like insurance companies into receivership, regulate the over-the-counter derivatives market, and additional responsibilities. As appraisers are aware, this legislation has a far-reaching and positive impact on our industry.

Passage of the bill by the U.S. house and senate was no easy task and required significant behind the scenes activity. The Appraisal Institute, through the efforts of the Washington, D.C. office, played a significant and active role in educating members of congress and their staff about the issues affecting appraisers and was an effective resource when questions about the appraisal industry arose.

The bill requires federal agencies to develop rules and regulations, conduct studies and issue reports. According to the bill, the U.S. Treasury Department will create a Federal Insurance Office, and the Federal Reserve Bureau will form the Consumer Financial Protection Bureau which will include an Office of Financial Protection for Older Americans and an Office of Financial Literacy.

How will H.R. 4173 impact appraisers? The bill incorporates features of the Truth in Lending Act (TILA), Title XI of FIRREA, the Real Estate Settlement Procedures Act (RESPA), Equal Credit Opportunity Act, Section I of the HVCC, as well as GAO studies. Most importantly, the bill emphasizes appraiser independence and customary and reasonable fees.

The bill expands on pre-existing appraisal independence requirements in TILA, retains many provisions of Section I of the Home Valuation Code of Conduct as it relates to appraiser independence, and requires mandatory reporting of USPAP and legal violations to state boards. Federal agencies including the Federal Housing Finance Agency are expected to issue interpretive guidelines and statements of policy in terms of appraiser independence.

In terms of customary and reasonable fees, the bill mandates that appraisers be adequately compensated for their services. Customary and reasonable fees are to "be established by objective third-party information such as government agency fee schedules, academic studies, and independent private sector surveys." In the determination of such fees, the cram down fees of AMCs

are not to be considered.
Other appraisal provisions of the bill include state regulation of AMCs, appraisal portability, open meetings of the Appraisal Subcommittee, and FIRREA changes such that appraisal designations may be a criteria taken into consideration when establishing criteria for an approved appraiser.

By no means is H.R. 4173 the end all, be all legislation to solve this financial crisis in which we find ourselves. That being said, the bill is a great beginning on the road to financial stability and recovery. Much work is ahead for federal agencies as well as state boards and all parties concerned. My hope is that the tasks get accomplished in such ways that the financial well-being of all involved are considered, that consumers are protected and that investors are provided a reasonable return on their investment. Only a win-win situation will return the economy to balance.

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