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The Housing and Economic Recovery Act of 2008

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I was enjoying my morning cup of coffee when I heard that President Bush signed into law the Housing and Economic Recovery Act of 2008. It should have some far reaching benefits for homeowners struggling to avoid foreclosure and the economy in general. The measure includes tax breaks to stimulate home buying, an increase in loan limits for Fannie Mae, Freddie Mac and FHA as well as modernization of FHA.

The bill also has language for appraisers. First, it sets standards for appraisals and appraisers related to mortgages insured under the HOPE for Homeowners section. Here's a brief rundown on what the bill says.

The HOPE program is designed to prevent foreclosure with participation voluntary on the part of homeowners and existing lien holders. Current borrowers would be refinanced into an FHA mortgage that could not exceed 90% of the home's current appraised value. Mortgagees, who agree to participate, would receive the proceeds of the new FHA loan as payment in full of the existing debt. The new loan amount could be less than 90% of the value determined by the borrower's capacity to repay.

Appraisals conducted in connection with a mortgage under the HOPE program shall, "(A) be based on the current value of the property; (B) be conducted in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.); (C) be completed by an appraiser who meets the competency requirements of the Uniform Standards of Professional Appraisal Practice; (D) be wholly consistent with the appraisal standards, practices, and procedures under section 202(e) of this Act that apply to all loans insured under this Act; and (E) comply with the requirements of subsection (g) of this section (relating to appraisal independence)."

Appraisal independence is addressed in another section, "(1) Prohibitions on interested parties in a real estate transaction.â€”No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal in connection with a mortgage insured under this section shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage. (2) Civil monetary penalties.â€”The Secretary may impose a civil money penalty for any knowing and material violation of paragraph (1) under the same terms and conditions as are authorized in section 536(a) of this Act."

Finally, and again only for HOPE program mortgages, the bill introduces new standards for FHA appraisers. According to section 1404, appraisers must, "(A) be certified (i) by the state in which the

property to be appraised is located; or (ii) by a nationally recognized professional appraisal organization; and (B) have demonstrated verifiable education in the appraisal requirements established by the Federal Housing Administration under this subsection."

This is the first time federal legislation has addressed the issue of appraisal independence. Its application is narrow similar to the application of anti-coercion language in the recently released amendments to Regulation Z. We need to continue efforts with Congress and regulators to have appraisal independence standards apply to all types of loans and to all lenders, brokers and others with an interest in the transaction.

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