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Reforming Real Estate Appraisal Licensure -Part One - by Roger Durkin

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For the last ten years Durkin Law, P.C. has acted as defense attorneys for Massachusetts licensed real estate appraisers charged in a complaint with the threat of losing his or her license to earn a living and/or face heavy fines, forced to surrender their license, up to three years' probation or suspension and typically the added cost of 45 hours of uncredited classroom courses.

The state licensing law came in 1992 Massachusetts had just under 7,000 licensed real estate appraisers. In 2021, Massachusetts has only 1886 to serve the entire mortgage market. 677 are qualified to appraise commercial property and 1,209 residential appraisers.

Federal Law Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) requires that real estate appraisals utilized in connection with federally related transactions (banking) must be licensed by the state. Federal law, FIRREA Title XI's purpose is to "provide that Federal financial policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions to have a state real estate appraisal license." Massachusetts real estate appraisal license is not required for appraisals utilized for NON federally related transactions. That includes appraisals for bankruptcy, divorce, business disputes, casualty loss, environmental damage, etc. An appraiser does not need a license to appraiser personal property, business valuation, machinery, equipment of for tax assessors. The federal statute, the Massachusetts statute, and the federal and state agency appraiser regulations are exclusively designed and directed at protecting Banks and not consumers. A real estate appraiser must have a state license to provide appraisals for mortgages. Not otherwise. We do not know the number of real estate appraisers who provide non-bank related real estate appraisals. We do know the number of licensed real estate appraisers because the Appraisal Subcommittee a federal regulatory agency(1) with a 2020 budget of \$10,310,667, maintains a registry. In 2008, there were 120,551 licensed real estate appraisers in the United States serving all appraisals for federally related bank mortgages. At the end of 2020, the Appraiser Subcommittee Registry contained only 93,204 licensed appraisers, which is a loss of 27,347 appraisers.

Title XI also requires the ASC to monitor state licensing agencies compliance with Title XI by conducting audits. The last ASC audit of Massachusetts real estate appraisal license agency was in 2018. The Appraisal Subcommittee (ASC) 2018 report ranked Massachusetts license board publicly ranked the board as “Needs Improvement.” “State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements.” The ASC identified the areas of non-compliance as failure to maintain adequate documentation to support verification of all claimed education; failure to complete audits of affidavits for continuing education credit claimed, failure to document and maintain files to enable understanding of facts, determinations, and rationale for those determinations; and failed to resolve all complaints filed against appraisers within one year. Massachusetts had twenty-nine outstanding complaints of which three were unresolved for more than a year and one was unresolved for more than 2 years. Complaint investigation and resolution was cited in every ASC Compliance Review conducted since 2010.

In many ways the requirement of an occupational license is a restraint of trade, creates legalized cartels and definitely does away with competition.

To be a residential house appraiser, prerequisites for taking the license exam include a bachelor’s degree, two hundred (200) creditable classroom hours of specified curriculum; the completion of one thousand five hundred (1,500) hours of qualifying experience obtained in no fewer than twelve (12) months.

To be a commercial real property appraiser, prerequisites to take the license exam include a bachelor’s degree, 300 creditable class hours of required curriculum. 3,000 hours of qualifying experience obtained in no fewer than eighteen (18) months, a minimum of one thousand five hundred (1,500) hours must be non-residential appraisal work.

The number of state licensed bank appraisers is seriously being diminished through attrition and from the draconian regulations, and the entry requirement to obtain momentous amounts of experience and education.

Next time Part Two of Reforming Real Estate Appraisal Licensure will address reform remedies.

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1. The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) created in 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act. Title XI’s purpose is to “provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”