



The following information was obtained from a collection of various data sources including The Appraisal Institute, valuationreview.com and respective State Legislative websites.

The goal of this document is to examine how states are attempting to combat appraiser pressure. Appraiser pressure is defined as a mortgage lender, broker, or a real estate agent or broker pressuring an appraiser to reach a certain value in conjunction with an appraisal of real property. This is usually in connection with a mortgage loan. Many appraisers consider appraiser pressure to be the biggest problem facing appraisers in today's real estate market.

This document may not be all inclusive as new states may have instituted new laws. This information is not intended as legal advice. It is provided as a resource to our clients as an effort to inform them on regulatory changes in regards to appraiser independence.

ALASKA

Prohibited activities. In addition to activities prohibited elsewhere in this chapter or by law, a person who is a licensee, a person who is required to be licensed under this chapter, a person who is a small mortgage lender, and a person who is licensed under AS 06.20 may not misrepresent or conceal material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a borrower to enter into a mortgage loan transaction, or, in the course of a mortgage loan transaction, ...

(7) influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan; this paragraph does not prohibit a person from asking an appraiser to

- (A) consider additional appropriate property information;
- (B) provide further detail, substantiation, or explanation for the appraiser's value determination; or
- (C) correct errors in the appraisal report;

Alaska Statutes 06.60.340

ARIZONA

A person who induces or influences the actions of an appraiser for purposes of securing an appraisal that is grossly misleading, or fraudulent, is guilty of a class 6 felony.

Arizona Revised Statutes – 32-3633

ARKANSAS In addition to the other activities that are prohibited under this subchapter, it is unlawful for any person... in the course of any mortgage loan transaction or activity:

(9)(A) To influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(B) This subdivision (9) does not prohibit a mortgage broker or mortgage banker from asking the appraiser to do one (1) or more of the following:

- (i) Consider additional appropriate property information;



(ii) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(iii) Correct errors in the appraisal report;

Arkansas Fair Mortgage Lending Act Section 23-39-513

(a)(2) A person is guilty of a Class A misdemeanor if the person:

(A) Acts as an appraiser within the meaning of this chapter without an appraiser classification;

(B)(i) With an interest in a real estate transaction involving an appraisal, improperly influences or attempts to improperly influence the development, reporting, result, or review of a real estate appraisal through intimidation, coercion, extortion, bribery, blackmail, threat of nonpayment or withholding payment for services, or threat of exclusion from future appraisal work.

(ii) Subdivision (a)(2)(B)(i) of this section does not prohibit a person from:

(a) Requesting an appraiser to:

(1) Consider additional information concerning the real estate appraisal;

(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(3) Correct errors in the appraisal report; or

(b) Withholding payment for an appraisal based upon a bona fide dispute concerning the appraiser's compliance with the appraisal standards adopted by the Arkansas Appraiser Licensing and Certification Board under this chapter.

(iii) A violation of this subdivision (a)(2)(B) is a ground for discipline against a person holding a license, certificate, or registration under this chapter; or

(C) Violates any other provision of this chapter.

Arkansas Code § 17-14-308, as amended by Act 413 (2009 - HB 1500)

CALIFORNIA

1090.5. (a) No person with an interest in a real estate transaction involving an appraisal shall improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(b) Subdivision (a) does not prohibit a person with an interest in a real estate transaction from asking an appraiser to do any of the following:

(1) Consider additional, appropriate property information.

(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(3) Correct errors in the appraisal report.



(c) If a person who violates this section is licensed under any state licensing law and the violation occurs within the course and scope of the person's duties as a licensee, the violation shall be deemed a violation of that state licensing law.

(d) Nothing in this section shall be construed to authorize communications that are otherwise prohibited under existing law.

Civil Code Section 1090.5

COLORADO

12-61-910.2. Prohibited conduct - influencing a real estate appraisal. (1) A mortgage loan originator shall not, directly or indirectly, compensate, coerce, or intimidate an appraiser, or attempt, directly or indirectly, to compensate, coerce, or intimidate an appraiser, for the purpose of influencing the independent judgment of the appraiser with respect to the value of a dwelling offered as security for repayment of a residential mortgage loan. This prohibition shall not be construed as prohibiting a mortgage loan originator from requesting an appraiser to:

(a) Consider additional, appropriate property information;

(b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(c) Correct errors in the appraisal report.

Colorado Revised Statutes Section 12-61-910.2

CONNECTICUT

Mortgage brokers, real estate brokers, and real estate salespersons are prohibited from attempting to influence residential appraisals, and from refusing to pay an appraiser or intentionally avoiding a specific appraiser in the future, because of an appraiser's previous work that reflected a fair market value estimate that was less than the sale contract price.

Sections 81 and 82 of House Bill 5577

has become the latest state to pass legislation ensuring the independence of appraisals as part of mortgage loan originations. The provisions are contained in a law that reforms the mortgage industry in Connecticut and brings the state into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

SB 948 was signed into law by Gov. **M. Jodi Rell** on July 9. It contains a provision that ensures appraisal independence from mortgage loan originators, similar in wording to the model language seen in numerous other mortgage reform laws in states across the country. Section 20 (11), makes it illegal for anyone to:

Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, as amended by this act, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

A later provision in the act reinforces this point by outlawing the improper influence of



appraisers in detail. Section 36a-760j is repealed, with the following text substituted instead:

No person shall [not] influence real estate appraisals of residential property. For the purposes of this section, "influence residential real estate appraisals" includes, but is not limited to: (1) Refusal, or intentional failure, to pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price; or (2) refusal, or intentional failure, to utilize, or encouraging other mortgage brokers not to utilize, an appraiser based solely on the fact that the appraiser provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

DELAWARE

SB 73 was signed into law by Gov. **Jack Markell** on July 6. Designed to reform mortgage origination practice in the state, it contains a provision that ensures appraisal independence. Section 2418, Prohibited Acts and Practices, (11) states it is unlawful to:

make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

Any violation of this act constitutes a Class A misdemeanor, and could result in a civil penalty of up to \$25,000, as well as a suspension or revocation of the offender's license.

DISTRICT OF COLUMBIA

(d) A mortgage loan originator or loan officer required to be licensed under this act shall not:

(11) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

D.C. Official Code § 26-1114

FLORIDA 494.00255 Administrative penalties and fines; license violations.—

(1) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (2) may be taken against a person licensed or required to be licensed under part II or part III of this chapter:

(f) Requesting a specific valuation, orally or in writing, from an appraiser for a particular property, implying to an appraiser that a specific valuation is needed for a particular property, or in any manner conditioning the order for an appraisal on the appraisal meeting a specific valuation. The numeric value of the specific valuation sought need not be stated, but rather the mere statement that a specific valuation is sought, violates this section.

Section 494.00255, Florida Statutes as added by Senate Bill 2226 (2009)



HAWAII

Overriding a veto by Gov. Linda Lingle, the Hawaii Legislature enacted a bill that includes appraiser independence language. The bill makes it a violation for a mortgage loan originator to “make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purpose of influencing the independent judgment of the appraiser with respect to the value of a property.” The bill was enacted in order to comply with the federal Secure and Fair Enforcement for Mortgage Licensing Act, which requires states to enact more stringent licensing requirements for mortgage loan originators.

Under the bill, mortgage loan originators who are found to have violated the appraiser independence provision can have their licenses denied, suspended, revoked, conditioned or non-renewed. Further, the Commissioner of Financial Institutions can levy a civil fine of up to \$25,000 for each violation.

S.B. No. 1218

(11) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purpose of influencing the independent judgment of the appraiser with respect to the value of a property;

IDAHO

PROHIBITED PRACTICES OF MORTGAGE BROKERS AND MORTGAGE LENDERS. No mortgage broker or mortgage lender licensee under this part or person required under this part to have such license shall:

(6) Make payment, whether directly or indirectly, of any kind to any inhouse or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any residential real property which is to be covered by a residential mortgage loan;

New Chapter 31, Title 26, Section 211 of Idaho Code as Enacted by HB 169 (2009)

ILLINOIS

Public Act 096-0112

(g) Will not make payment, whether directly or indirectly, of any kind to any in house or fee appraiser of any government or private money lending agency with which an application for a home mortgage has been filed for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by such home mortgage;

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purpose of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purpose of influencing the independent judgment of the appraiser with respect to the value of the property.



INDIANA

A person licensed or registered under this chapter (specifically loan brokers), or a person required to be licensed or registered under this chapter, shall not knowingly bribe, coerce, or intimidate another person to corrupt or improperly influence the independent judgment of a real estate appraiser with respect to the value of any real estate offered as security for a mortgage loan.

Indiana Code – 23-2-5-9.1

IOWA

No mortgage lender, mortgage broker or originator, real estate broker or salesperson, client, party, appraiser, nor another person with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment, shall improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal through coercion, extortion or bribery, or through any other means that impairs or may impair the independent judgment of the appraiser, including but not limited to the withholding or threatened withholding of payment for an appraisal fee, or the conditioning of the payment of any appraisal fee upon the opinion, conclusion or valuation to be reached, or a request that the appraiser report a predetermined opinion, conclusion or valuation, or the desired valuation of any person.

Note: Improper appraiser pressure has long violated the Iowa Consumer Fraud Act and is now expressly identified in the law as an unlawful practice under that Act. The Iowa Consumer Fraud Act is enforced by the Iowa Attorney General. Remedies include injunctive relief, civil penalties up to \$40,000 per violation, additional civil penalties up to \$5,000 per violation for unlawful practices directed toward older citizens, consumer restitution, investigative costs, and attorney fees.

Iowa Code Section 543D.18A

It is a violation of this chapter for a person or individual subject to this chapter to engage in any of the following activities:

11. Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

Iowa Code 535D.17 as added by Senate File 355 (2009)

KANSAS

(1) No person required to be licensed or registered under this act shall directly or indirectly...

(l) make any payment, threat or promise to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat or promise to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property or engage in any activity that would constitute a violation of K.S.A. 58-2344, and amendments thereto;



Senate Bill 240 as enacted in 2009

No lender or any person acting on behalf of a lender shall disclose to an appraiser or other person engaged to determine the appraised value of real estate, the amount of a proposed real estate loan or the preferred or required value of any real estate intended to secure such loan.

Kansas Statute 58-2344

KENTUCKY

It is unlawful for any person in the course of a mortgage transaction to improperly influence the development, report, result, or review of a real estate appraisal sought in connection with a mortgage loan.

Kentucky Revised Statutes Chapter 286.2-030

SB 73 was signed into law by Gov. **Jack Markell** on July 6. Designed to reform mortgage origination practice in the state, it contains a provision that ensures appraisal independence. Section 2418, Prohibited Acts and Practices, (11) states it is unlawful to:

make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

Any violation of this act constitutes a Class A misdemeanor, and could result in a civil penalty of up to \$25,000, as well as a suspension or revocation of the offender's license.

LOUISIANA

HB 381, sponsored by Rep. **Frank A. Hoffman**, has passed through the Louisiana legislature and is waiting to be sent to Governor **Bobby Jindal's** office to be signed into law.

Appraiser independence is a vital part of AMC regulation, and is given extra strength in HB 381. As well as the usual language that prohibits improper influence of an appraiser, including coercion, intimidation and bribery, there are a couple of strong provisions that outlay exactly what an AMC is prohibited from doing. The first is paragraph 6 of Section 3415.6, which makes it unlawful for an AMC to:

Provide to an independent appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided.

The same section of the bill prohibits the AMC from ordering a second appraisal or using an AVM unless there is a reasonable basis for believing the original appraisal was flawed or tainted, or unless it is on a review or quality control basis.

Most interesting is Paragraph 9, which contains language that has not been included in previous AMC regulations. It states it is unlawful for an AMC to:

Force an appraiser to accept an assignment where the delivery times are so short that they force the appraiser to render a misleading report.



The penalty for violating the act is set at a cap of \$50,000 for companies and \$5,000 for unlicensed individuals. Any final decision made by the board can be reviewed by the Nineteenth Judicial District Court in the Parish of East Baton Rouge.

HB 381, becomes effective Jan. 1, 2010.

MAINE

Beginning October 1, 2009, residential mortgage loans are subject to the following restrictions.

A. In connection with a consumer credit transaction secured by a consumer's principal dwelling, no creditor or mortgage broker, and no affiliate of a creditor or mortgage broker, shall directly or indirectly coerce, influence or otherwise encourage an appraiser to misstate or misrepresent the value of such dwelling.

- (1) In connection with a consumer credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before loan consummation, of a violation of this paragraph in connection with an appraisal may not extend credit based on such appraisal unless the creditor documents that it has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.
- (2) For purposes of this paragraph, "mortgage broker" means a person, other than an employee of a lender, who for compensation or other monetary gain, or in expectation of compensation or other monetary gain, arranges, negotiates or otherwise obtains an extension of consumer credit for another person. "Mortgage broker" includes a person meeting this definition, even if the consumer credit obligation is initially payable to such person, unless the person provides the funds for the transaction at consummation out of the person's own resources, out of deposits held by the person or by drawing on a bona fide warehouse line of credit.
- (3) For the purposes of this paragraph, "appraiser" means a person who engages in the business of providing assessments of the value of dwellings. "Appraiser" includes a person that employs, refers or manages appraisers and affiliates of such persons.

11. Improper influence. Make any payment, threat or promise directly or indirectly to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise directly or indirectly to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

MICHIGAN

(2) A person, association, nonprofit corporation, common law trust, joint stock company, limited liability company, or any other group of individuals, however organized, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or representative thereof who or which willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00, imprisonment for not more than 1 year, or both:...

(c) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a secondary mortgage loan, including, but not limited to, by doing any of the following:

- (i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.



(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

Michigan Code of Laws 493.77, Section 27

Sec. 29. (1) An owner, partner, member, officer, director, trustee, employee, agent, broker, or other person, or a representative acting on the authority of that person that willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both:...

(d) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan, including, but not limited to, by doing any of the following:

(i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

Michigan Code of Laws 445.1679, Section 29

Sec. 2635. (1) Except as otherwise provided in subsection (2), a licensee who does 1 or more of the following shall be subject to the penalties set forth in article 6:

(i) Develops and communicates, in violation of the standards adopted under this article, an appraisal used as an investment or as collateral for a loan in a real-estate-related financial transaction by developing and communicating that appraisal as a result of the client's or intended user's doing either or both of the following:

(i) Setting preconditions on the outcome of the appraisal as a prerequisite for being selected to develop and communicate an appraisal or for obtaining future appraisal work. As used in this subparagraph, "setting preconditions on the outcome of an appraisal" does not include the communication of information, including documents related to the property being appraised, necessary to identify the valuation problem to be solved and the scope of work necessary to determine credible assignment results.

(ii) Representing or implying that payment for the development and communication of the appraisal is predicated upon attaining a desired minimum appraised value.

(2) A person licensed under this article who violates subsection (1)(i) is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both.

Michigan Code of Laws 339.2635 as amended by HB 4054 (2008)



MINNESOTA

(a) No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, except as otherwise provided in paragraph (b), shall:...

(11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

Minnesota Statutes 58.13

MISSISSIPPI

(1) No person required to be licensed * * * under this chapter shall:

(s) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

Mississippi Code 81-18-27 as amended by SB 2983 (2009)

MISSOURI

It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal. Such acts are considered mortgage fraud, which is a felony punishable by up to seven years in prison and a civil fine of up to \$2,500 per violation. Chapter 443, Section 443.930.

HB 382 was sponsored by Rep. **Stanley Cox** Section 443.737 is the provision that ensures appraisal independence. it is unlawful to:

Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

Any violation of the this provision will result in a class C felony and a civil penalty of up to \$25,000, as well as the loss or suspension of the violator's license.



NEBRASKA

LB 328, introduced by Sen. **Rich J. Pahls**, and in particular, Sec 25, section 45-714, deals with mortgage reform and appraisal independence. In both Missouri and Nebraska, it is unlawful to:

Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

It is a class 3 misdemeanor, and the possibility of three months in jail or a \$500 fine.

NEVADA

Assembly Bill No. 287

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto.

Sec. 4. 1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal. 2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser: (a) Consider additional appropriate property information; (b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or (c) Correct errors in his appraisal.

Sec. 17. 1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation: (a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal; (b) Withholding or threatening to withhold future business for an independent appraiser; (c) Terminating an agreement with an independent contractor without prior written notice;

– 13 –(d) Directly or indirectly promising future business for or increased compensation to an independent contractor; (e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor; (f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor; (g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions; (h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits; (i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless: (1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or (2) The second or subsequent appraisal or automated valuation model is performed pursuant to



a bona fide appraisal review or quality control process; (j) Accepting a fee for performing appraisal management services if the fee is contingent on: (1) An appraisal report having a predetermined analysis, opinion or conclusion; (2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or (3) The consequences resulting from an appraisal assignment; or (k) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality. 2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.

– 14 – Sec. 18. *It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.*

Section 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

NEW HAMPSHIRE

HB 610 was signed into law by Gov. **John Lynch** and is now effective. The bill brings the Granite State into compliance with the Safe and Fair Enforcement for Mortgage Licensing Act of 2008.

The provision of the bill that addresses the independence of appraisals is identically worded with many other states' similar legislation. Section 34, IV, says that no person subject to this chapter can:

Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

Anyone found violating this provision could have their license revoked or suspended and will face a civil penalty of up to \$25,000.

NEW JERSEY

The following practices shall be prohibited and a violation of this act with respect to any mortgage loan:

- i. No residential mortgage lender, residential mortgage broker, or mortgage loan originator shall make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a mortgage loan, including to any appraiser of the real property that is, or intended to be, the security for the loan for the purposes of influencing the appraiser's judgment with respect to the value of the property.



NEW MEXICO

It is a violation of the New Mexico Mortgage Loan Originator Licensing Act for a mortgage loan originator to:...

(11) make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property. Nothing in this paragraph shall be construed to prohibit a mortgage loan originator from asking the appraiser to consider additional appropriate property information or provide further detail, substantiation or explanation for the appraiser's value conclusion;

New Section of New Mexico Statutes as added by SB 342 (enacted in 2009)

NEW YORK

It is a civil violation in New York to improperly influence the development, reporting, result or review of a real estate appraisal relating to real property securing a home loan. Any lender or mortgage broker found by a preponderance of evidence to have committed a violation of this provision is liable to the borrower for actual damages.

Banking Law § 590-b

NORTH CAROLINA

Section 53-244.111 makes it unlawful for a mortgage loan originator to:

(11) To improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

However, the same provision allows a lender, broker or mortgage servicer to ask the appraiser to consider additional appropriate property information, provide further detail, substantiation, or explanation for the appraiser's value conclusion and correct errors in the appraisal report.

Interestingly, the same section contains a provision that makes it unlawful for a lender, broker or mortgage servicer to not pay an appraisal fee promptly. However, this does not cover appraisal management companies, some of whom have attracted criticism for their late payments of fees that are often highly reduced. Part (9) of Section 53-244.111 makes it unlawful to

Fail to pay promptly when due reasonable fees to a licensed appraiser for appraisal services that are:

a. Requested from the appraiser in writing by the mortgage broker or mortgage lender or an employee of the mortgage broker or mortgage lender; and

b. Performed by the appraiser in connection with the origination or closing of a mortgage loan for a customer or the mortgage broker or mortgage lender.

HB 1523, called the S.A.F.E. Mortgage Licensing Act, goes into effect July 31.



NORTH DAKOTA

13-10-17. Prohibited acts and practices. It is a violation of this chapter for a person or individual subject to this chapter to:...

11. Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

Chapter 13-10-17 of the North Dakota Century Code as enacted by SB 2160 (2009)

OHIO

No person or business entity, directly or indirectly, shall knowingly compensate, coerce or intimidate or attempt to compensate, coerce or intimidate a licensed or certified appraiser for the purpose of corrupting or improperly influencing the independent judgment of a licensed appraiser with respect to the value of property. Violation of this act grants the Division of Banking or the Mortgage Broker Division the power to invoke fines, suspend or revoke the license or other penalties suitable to the Division.

Ohio Chapter 1322.07(g)

OKLAHOMA

It is now prohibited for any entity or individual subject to the act to:

Make any payment, threat or promise, directly or indirectly, to any entity or individual for the purposes of influencing the independent judgment of the entity or individual in connection with a residential mortgage loan or make any payment, threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

Any mortgage broker or loan originator who violates this act could have their license denied, suspended, revoked, censured, placed on probation or denied a renewal. They could also have to pay a civil penalty between \$100 and \$2,500.

RHODE ISLAND

HB 5704 was introduced by Rep. **Brian P. Kennedy**, and has been passed into law without the signature of Gov. **Donald Carcieri**. It is known as an Act Relating to Financial Institutions and is aimed at reforming the mortgage industry in Rhode Island.

A provision in the bill ensures the independence of appraisals from outside or improper influence. Section 19-14.10-17, Prohibited acts and practices, bars any person or individual from:

(11) Making any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;



Punishment for violating this provision can result in a license being suspended or revoked, and a civil penalty being imposed. HB 5704 is effective at the end of July, 2009 for people without a mortgage loan origination license, and Jan. 1, 2010 for people who already have a mortgage loan origination license.

SOUTH CAROLINA

SB 673, known as the Mortgage Lending Act, was sponsored by Sen. **Robert Ford** and Sen. **David L. Thomas**. It reforms the mortgage regulations and licensing requirements in the state, and has a passage that makes it illegal to influence an appraisal. Section 37-22-190 (10) makes it unlawful for anyone subject to the act to:

Influence or attempt to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

However, this does not stop a lender or servicer from asking the appraiser to consider additional information, provide more detail or explanation, and correct errors in the report. Violations of this provision will result in an administrative penalty of up to \$10,000.

SOUTH DAKOTA

No real estate appraiser with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment may improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal by:

- (1) Coercion, extortion, or bribery;
- (2) Withholding or threatened withholding of payment for an appraisal fee;
- (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached;
- (4) Requesting that the appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person; or
- (5) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality.

A violation of this section may constitute grounds for discipline against a real estate appraiser who is registered, licensed, or certified pursuant to the laws of the State of South Dakota.

No person violates section 1 of this Act solely by asking a real estate appraiser to consider additional, appropriate property information, or to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or by withholding payment of an appraisal fee based on a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the Department of Revenue and Regulation pursuant to this chapter. A person does not violate section 1 of this Act solely by retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an appraiser with information the appraiser is required to analyze under the appraisal standards adopted by the department, such as agreements of sale, options, or listings of the property to be valued.

No mortgage lender, mortgage broker, or mortgage loan originator, required to be licensed or registered by this chapter, with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment may improperly influence or



attempt to improperly influence the development, reporting, result, or review of a real estate appraisal by:

- (1) Coercion, extortion, or bribery;
- (2) Withholding or threatened withholding of payment for an appraisal fee;
- (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached;
- (4) Requesting that the appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person; or
- (5) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality.

A violation of this section may constitute grounds for discipline against a mortgage lender, mortgage broker, or mortgage loan originator who is licensed or registered pursuant to this chapter.

No person violates section 3 of this Act solely by asking a real estate appraiser to consider additional, appropriate property information, or to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or by withholding payment of an appraisal fee based on a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the Department of Revenue and Regulation pursuant to this chapter. A person does not violate section 3 of this Act solely by retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an appraiser with information the appraiser is required to analyze under the appraisal standards adopted by the department, such as agreements of sale, options, or listings of the property to be valued.

TENNESSEE

SB 2279 was signed into law by Gov. **Phil Bredesen** on June 23 and was created to reform the state's mortgage laws.

Section 45-13-401, part (14) says it is a violation for any mortgage lender, loan broker, servicer or loan originator to "Intimidate a real estate appraiser or influence an appraiser's report relating to market conditions or determination of value."

Whereas other states used explicit language like, "coercion, bribery, threatening," Tennessee has used one term: "intimidate." This general term could include all of the above, but its interpretation remains to be seen.

Violators of this provision could receive a civil penalty of up to \$10,000 and have their license revoked or suspended. Most of the act took effect as soon as it passed into law.

TEXAS

(13) make a payment, threat, or promise, directly or indirectly, to a person for purposes of influencing the person's independent judgment in connection with a residential mortgage loan, or make a payment, threat, or promise, directly or indirectly, to an appraiser of property, for purposes of influencing the appraiser's independent judgment with respect to the property's value;



UTAH

An individual or entity transacting the business of residential mortgage loans in this state may not give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice. .

Utah Code Section 61-2c-301

VERMONT

HB 171 was signed into law by Governor **Jim Douglas** on May 21, 2009. It is known as the Act Relating to Home Mortgage Protection for Vermonters.

Section 2241, (11), prohibits the improper or outside influence of appraisals, using the same wording as many of the other states that have passed similar legislation:

Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

The legislation called for mortgage originators who violated the act to be reported to the Nationwide Mortgage Licensing System and Registry (NMLS).

WASHINGTON

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020 (1)(e), (g), or (4) to...

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

Revised Code of Washington 19.146.0201

WEST VIRGINIA

§31-17A-16. Prohibited acts and practices.

It is a violation of this article for a person or individual subject to this article to:

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;



Section 31-17A-16 as added by SB 532 (2009)

(m) In making any primary or subordinate mortgage loan, no licensee may, and no primary or subordinate mortgage lending transaction may, contain terms which...:

(2) Compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a deed of trust or is being offered as security according to an application for a primary or subordinate mortgage loan;

Section 31-17-8(m)(2)

§106-5-10. Improper influence of appraisers.

10.1 Any threat, oral or written, direct or implied, by a lender or broker to withhold payment of an appraiser's fee constitutes an attempt to coerce or intimidate an appraiser for the purpose of influencing his or her independent judgment in violation of W.Va. Code § 31-17-8(m)(2).

10.2 Any threat, oral or written, direct or implied, by a lender or broker to cease using the services of an appraiser in the future if that appraiser does not provide an appraisal amount in accordance with the expectations of that lender or broker constitutes an attempt to coerce or intimidate an appraiser for the purpose of influencing his or her independent judgment in violation of W.Va. Code § 31-17-8(m)(2).

West Virginia Legislative Rules - Section 106-5-10