

Appraiser Independence and Congressional Action

By Thomas J. Inserra



As Congress winds toward its summer recess, the mortgage lending and finance problems linger. With rising fuel costs, hints of inflation, record levels of both foreclosures and mortgage fraud - Washington lawmakers are considering a number of bills designed to shore up the sagging housing market and add a shot of energy to the economy.

Last year, the House of Representatives passed a bill (H.R. 3915) that includes a ban on improper influence on appraisers. Coercion, extortion, instruction, intimidation, threat of non-payment and bribery are all mentioned as specific acts, which would be banned under the law. The bill has not been brought up by the Senate although the Senate is actively pursuing related legislation on mortgage finance matters and FHA authorizations.

In addition to supporting appraiser independence, the bill requires the Appraisal Subcommittee to issue detailed reports on state enforcement actions and supplies the subcommittee with authority to issue rules relative to overseeing state appraisal licensing and certification laws. It is no secret that the subcommittee has been criticized for not being more aggressive in its oversight responsibilities and, if passed by the Senate, this bill would help address that concern. The bill would provide authority for states to receive some funding for enforcement in the form of grants from the subcommittee.

In the Senate, Chris Dodd, chair of the Senate Banking Committee has held hearings and has introduced S. 2452, "The Homeownership Preservation and Protection Act," which contains a requirement for a "surety bond" for appraisers. The cost of such a bond for appraisers would be 1% of the aggregate value of all homes appraised. Estimates for the cost of such a bond are between \$10,000 and \$40,000 per year for appraisers. This bill has not passed the committee but it is still considered a possibility.

It is evident that members of Congress are attuned to the economic realities of their states and districts. Knowledge that many people are facing foreclosure and loss of their homes is real motivation for Congress to act. Recently, the FHA bill in the House (H.R. 5830) has allowed for bargaining between the Senate and House. Designed to allow FHA greater flexibility in its lending programs, appraisal provisions are a part of the mix. Appraiser competency provisions are contemplated as well as FHA-specific education.

As you recall from my last article, the New York Attorney General, Andrew Cuomo, has pursued an agreement with Fannie Mae and Freddie Mac relative to appraiser independence. The Home Valuation Code of Conduct or HVCC has stimulated a lot of debate and even controversy. At a recent Senate Banking Committee hearing Senator Elizabeth Dole was prepared to offer an amendment which would have directly impacted the HVCC agreement and put the issue into the federal bank regulatory arena.

However, as of this writing, the amendment has not been considered. Nevertheless, because of the time limitations involved with getting legislation through Congress and the need to take action on mortgage reform and economic stimulus, no one can predict exactly where these various banking bills and amendments may merge or land.

While Congress is poised to act, the question is how and when. With 90% of appraisers in a recent survey indicating that they had been inappropriately pressured, many in the industry see a clear correlation between the worsening mortgage crisis and the compromise of appraiser independence. Lately, many are asking a simple question that continues to go unanswered: How much higher do foreclosure rates need to rise and mortgage fraud cases increase before Congress and regulators realize that appraiser independence is a real problem that affects the safety and soundness of our entire banking system?

Confidence in our mortgage sector cannot be restored until appraiser independence is taken seriously. Meaningful Congressional reforms are a key step in that direction.

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Originally Posted on: [National Mortgage News](#)