



August 19, 2008

The Honorable Chuck Hagel  
United States Senate  
248 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Hagel:

Our organizations want to alert you to an article published this week by the Associated Press highlighting shortcomings in the real estate appraisal regulatory structure. The article, "Weak Rules Cripple Appraiser Oversight," has brought to the public's attention the same imperfections of **Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989** that we have been expressing to Congress since 2001.

We hope that this article proves to be a catalyst for modernizing the existing appraisal regulatory structure and making it more effective. Of particular importance in this regard is the Senate's adoption of Title VII of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act, which goes to the heart of the problems identified in the Associated Press expose, including more effective and responsive oversight by the Appraisal Subcommittee and greater resources to state appraisal boards for enforcement activities. The appraisal regulatory reforms contained in H.R. 3915 enjoy bipartisan support, and they were overwhelmingly approved by the House of Representatives last year.

We remain deeply troubled by the lack of responsiveness by some federal and state appraiser regulators in carrying out Title XI responsibilities. For too long, federal appraiser regulators have failed to oversee properly the activities of state appraiser regulatory agencies, while many of those state agencies have failed to conduct active oversight or enforcement over licensed appraisers. Many complaints against appraisers have gone unheard and uninvestigated, allowing these individuals to continue to remain in the appraisal profession.

It also is important to encourage clients of appraisal services to exceed the minimum licensing requirements, as set forth by Title XI, and recognize the importance of using competent and highly trained professionals, such as those who have achieved a designation from a nationally recognized professional appraisal organization. We strongly believe that this would help mitigate concerns about appraiser involvement in mortgage fraud.

Specifically, Title XI has several structural deficiencies that we previously identified, which are highlighted in the Associated Press article, as follows:

- The one regulatory weapon the Appraisal Subcommittee has to ensure that enforcement activities of state appraisal boards are effective – decertification of the appraisal board – is too drastic a remedy. Intermediate sanctioning authority is essential to realistically conduct enforcement over state appraisal boards.
- While some state appraisal boards do a good job of enforcement, for whatever reason, whether it be lack of funding or lack of mandatory licensing requirements, more than a few do a poor job and fail to carry out their Title XI responsibilities. This cannot be allowed to continue. The Appraisal Subcommittee must hold the states responsible, and more resources must be given to state appraisal boards to conduct investigations and enforcement.

- While we have serious concerns about the lack of enforcement by state appraisal boards, we recognize that, without adequate funding and trained personnel, the agencies are not fully or properly equipped to deal with the problems.
- Appraisers must remain independent and free of coercion by lenders, mortgage brokers, realty agents, appraisal management companies, and others involved in the appraisal process. Recently, the Federal Reserve Board modified the Truth in Lending Act (Regulation Z) to strictly prohibit coercion of appraisers by mortgage lenders and mortgage brokers. While Regulation Z goes a long way toward addressing the problem, we believe that the Congress should enact appraiser independence requirements for all mortgage transactions, much as it did recently for appraisals performed for the new “Hope for Homeowners” program enacted last month.
- Too many federally related transactions require no appraisal at all. The current appraisal “de minimis,” whereby transactions below \$250,000 are exempted from Title XI’s appraisal requirements, exposes consumers to unregulated valuation products. For collateral assessment to be meaningful, it is important that valuations for mortgage transactions be subject to uniform appraisal standards and effective oversight and enforcement.

Title XI needs to be updated to address these and other concerns that present dilemmas in today’s valuation industry. For instance, some lenders utilize the services of appraisal management companies – third party vendor managers for appraisal services. We have become aware of instances where appraisers who have had their licenses revoked by state appraisal boards have formed appraisal management companies, outside the oversight and enforcement of state appraisal boards. While it is fair to criticize many state appraisal boards for a lack of enforcement, we also must realize that they have a tough job, and that the appraisal profession is ever-changing and dynamic.

The good news is that many of these problems are directly addressed in Title VII of H.R. 3915. We strongly support this legislation and call on the Senate to enact these provisions by building on the bipartisan foundation established on appraisal issues by Sen. Robert Casey (D-PA) and Sen. Mel Martinez (R-FL). To that end, we believe that policymakers must be extremely careful not to enact legislation that will drive competent and highly qualified appraisers from residential appraisal practice.

Two onerous proposals have been introduced in Congress in the past year for appraisers to carry a “surety bond” that leading insurance providers estimate would cost individual residential appraisers as much as \$50,000 per year. Unfortunately, these proposals would cripple the residential appraisal profession, and fail to address the underlying issue – lack of enforcement of the existing laws and regulations. We believe a better solution – one that is both meaningful and reasonable – can be found in Title VII of H.R. 3915, and we strongly urge the Senate to take swift action on this legislation.

We look forward to working with you to address this important issue. Should you have any questions, please contact Bill Garber, Director of Government and External Relations, Appraisal Institute, at 202-298-5586 or [bgarber@appraisalinstitute.org](mailto:bgarber@appraisalinstitute.org) or Peter Barash, Government Relations Consultant, American Society of Appraisers, at (202) 466-2221 or [peter@barashassociates.com](mailto:peter@barashassociates.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers  
National Association of Independent Fee Appraisers

Attachment: “Weak Rules Cripple Appraiser Oversight,” Associated Press