

Rule 61J1-9.001

Discussion Documents

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Select Year:

The 2018 Florida Statutes

[Title XXXII](#)REGULATION OF PROFESSIONS
AND OCCUPATIONS[Chapter 475](#)REAL ESTATE BROKERS, SALES ASSOCIATES,
SCHOOLS, AND APPRAISERS[View Entire
Chapter](#)**475.628 Professional standards for appraisers registered, licensed, or certified under this part. —**

(1) The board shall adopt rules establishing standards of professional practice which meet or exceed nationally recognized standards of appraisal practice, including standards adopted by the Appraisal Standards Board of the Appraisal Foundation. Each appraiser registered, licensed, or certified under this part must comply with the rules. Statements on appraisal standards which may be issued for the purpose of clarification, interpretation, explanation, or elaboration through the Appraisal Foundation are binding on any appraiser registered, licensed, or certified under this part, upon adoption by rule of the board.

(2) The board may adopt rules establishing standards of professional practice other than standards adopted by the Appraisal Standards Board of the Appraisal Foundation for nonfederally related transactions. The board shall require that when performing an appraisal or appraisal service for any purpose other than a federally related transaction, an appraiser must comply with the Ethics and Competency Rules of the standards adopted by the Appraisal Standards Board of the Appraisal Foundation, and other requirements as determined by rule of the board. An assignment completed using alternate standards does not satisfy the experience requirements under s. [475.617](#) unless the assignment complies with the standards adopted by the Appraisal Standards Board of the Appraisal Foundation.

History.—ss. 9, 11, ch. 91-89; s. 4, ch. 91-429; s. 35, ch. 98-250; s. 22, ch. 2012-61; s. 9, ch. 2017-30.

FLORIDA REAL ESTATE APPRAISAL BOARD

RULES REPORT – AUGUST 2018

61J1-9.001 Standards of Appraisal Practice and Evaluations.

All registered, licensed, or certified appraisers shall comply with the 2018-2019 Uniform Standards of Professional Appraisal Practice (USPAP), effective January 1, 2018, which is incorporated by reference. The copyrighted material may be viewed at the Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801. The incorporated material will be available for public inspection and examination at the Department of State, Administrative Code and Register Section, Room 701, The Capitol, Tallahassee, Florida 32399-0250.

Rulemaking Authority 475.614 FS. Law Implemented 475.613(2), 475.628 FS. History—New 8-29-06, Amended 3-24-09, 1-30-12, 4-10-14, 12-10-15, 12-31-17, _____.

Ridenauer, Beverly

From: Dibiasio, Scott <sdibiasio@appraisalinstitute.org>
Sent: Wednesday, May 02, 2018 4:53 PM
To: Crawford, Lori
Cc: McGinnis, Katy; Rachel Clark; Ridenauer, Beverly
Subject: RE: 61J1-9.001 Rulemaking

Ms. Crawford,

Thank you for this information. The Florida chapters of the Appraisal Institute look forward to a discussion by FREAB at the June 4, 2018 meeting regarding the request to hold a rulemaking workshop or negotiated rulemaking proceeding in regard to 61J1-9.001.

However, it is was impossible for this request to have been submitted for FREAB's consideration seven days in advance of the April 9, 2018 meeting due to the fact that the Notice of Rule Development was only published in the Florida Administrative Register six days in advance of the meeting on April 3, 2018. It appears that the action taken by FREAB on April 9, 2018 to approve a Proposed Rule was premature given that any request for a rulemaking workshop or negotiated rulemaking submitted following publication of the Notice of Rule Development on April 3 could not have been considered as part of the agenda for the April 9, 2018 meeting.

Regards,

Scott DiBiasio
 Appraisal Institute
 Manager, State & Industry Affairs
 440 First Street, NW, Suite 880
 Washington, D.C. 20001
 (202) 298-5593
sdibiasio@appraisalinstitute.org

From: Crawford, Lori <Lori.Crawford@myfloridalicense.com>
Sent: Monday, April 30, 2018 7:12 PM
To: Dibiasio, Scott <sdibiasio@appraisalinstitute.org>
Cc: McGinnis, Katy <Katy.McGinnis@myfloridalicense.com>; 'Val Chiasson' <val@reafla.com>; 'Rachel Zucchi' <rzucchi@rklac.com>; 'Jennifer Marshall' <jm4632@aol.com>; Rachel Clark <Rachel.Clark@myfloridalegal.com>; Ridenauer, Beverly <Beverly.Ridenauer@myfloridalicense.com>
Subject: RE: 61J1-9.001 Rulemaking

Good evening Mr. DiBiasio,

Thank you for your email. In response to your request, per Section 120.525, Florida Statutes, the request to hold a rule development workshop was not received timely and therefore not distributed on Monday for discussion. We provided the letter to Chair Roy and after discussion he requested that we place the letter we received from the Appraisal Institute, Friday, April 6, 2018, on the June FREAB agenda for consideration.

Should you have any questions I welcome your communication.

Sincerely,



Lori Crawford

Executive Director

Florida Real Estate Commission

Florida Real Estate Appraisal Board

Division of Real Estate

Florida Department of Business and Professional Regulation

Phone: 407.650.4397



From: Dibiasio, Scott [<mailto:sdibiasio@appraisalinstitute.org>]

Sent: Wednesday, April 11, 2018 12:05 PM

To: McGinnis, Katy; Crawford, Lori

Subject: 61J1-9.001 Rulemaking

Ms. McGinnis/Ms. Crawford:

Can you please let me know why the AI's request for a Rule Development Workshop (attached) was not considered at the FREAB meeting on Monday? It was submitted in a timely manner, and as quickly as we could after publication of the Notice of Development of Rulemaking on April 3. It was in relation to an agenda item so it should not have been subject to your 7 day rule – as explained to me by Ms. Ridenauer.

Any insight you can provide is appreciated.

Thanks,

Scott DiBiasio

Manager, State & Industry Affairs

Appraisal Institute

440 1st Street, NW, Suite 880

Washington, D.C. 20001

(202) 298-5593

sdibiasio@appraisalinstitute.org

Ridenauer, Beverly

Subject: FW: Request for Rulemaking Workshop – 61J1-9.001
Attachments: AI_Letter_to_DBPR_FREAB_Re_61J1-9.001_Rulemaking_04062018.pdf

From: Val Chiasson [mailto:val@reafla.com]
Sent: Friday, April 06, 2018 11:57 AM
To: Crawford, Lori
Cc: McGinnis, Katy; Ridenauer, Beverly; Waters, Paul
Subject: Request for Rulemaking Workshop – 61J1-9.001

Ms. Crawford:

Attached to this email is a letter to the Florida Real Estate Appraisal Board/Department of Business Regulation requesting a Rulemaking Workshop regarding the 61J1-9.001 Notice of Development Rulemaking published in the Florida Register on April 3, 2018.

I am the Chair of the Appraisal Institute's Region X, which includes the 4 Florida Chapters of the Appraisal Institute that have signed this letter/request. I own and operate a small real estate business in Boca Raton and I am a state-certified general real estate appraiser. My commercial real estate appraisal business, and my ability to be able to perform evaluation services, would be directly impacted by any rules adopted by FREAB/DBPR regarding the standards of practice for evaluation services provided by state-certified real estate appraisers.

I too support the request of the AI chapters that FREAB/DBPR conduct a Rulemaking Workshop and/or negotiated rulemaking regarding any changes to 61J1-9.001 regarding standards of practice for evaluations.

Thank you very much in advance for FREAB/DBPR's consideration of our request.

Please contact me if you have any questions.

Regards,

Val Chiasson
State-Certified General Real Estate Appraiser RZ476



Val K. Chiasson, MAI, SRA
State-Certified General Real Estate Appraiser RZ476
Licensed Real Estate Broker

V K CHIASSON Real Estate Companies

327 Plaza Real, Suite 309
Boca Raton, FL 33432

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April 6, 2018

Ms. Lori Crawford
Executive Director
Florida Real Estate Appraisal Board
400 West Robinson Street, #N801
Orlando, FL 32801

Also sent via electronic mail to: Lori.Crawford@myfloridalicense.com

RE: Notice of Development of Rulemaking - F.A.C. 61J1-9.001 – Standards of Appraisal Practice

Dear Ms. Crawford:

On behalf of the 4 Florida chapters of the Appraisal Institute (AI), we are writing to respectfully request that the Florida Real Estate Appraisal Board (FREAB)/Department of Business and Professional Regulation (DBPR) conduct one or more Rulemaking Workshops, pursuant to F.S.A. 120.54(2)(c), regarding the F.A.C. 61J1-9.001, Standards of Appraisal Practice, rulemaking that was commenced via a Notice of Development of Rulemaking published in the Florida Administrative Register on April 3, 2018. In addition, the AI requests that FREAB/DRE consider the use of a negotiated rulemaking process for the development of this rule pursuant to F.S.A. 120.54(2)(d).

We have reviewed the Preliminary Draft of the proposed changes to F.A.C. 61J1-9.001, and believe that this rulemaking proceeding would benefit from additional discussion and input from affected stakeholders, as would occur during one or more Rulemaking Workshops. We also believe that this rulemaking meets the statutory criteria of being a complex and/or controversial rulemaking, and that a balanced committee of interested parties can be assembled to negotiate in good faith to achieve a mutually acceptable proposed rule.

The Florida chapters of the AI include 1,422 Designated Members, Candidates for Designation, and Affiliates, nearly all of whom are Florida Certified Residential or Certified General Real Estate Appraisers. Each AI member would be directly affected by this rulemaking as it relates to the standards of practice that they are required to follow when providing appraisal services and when performing evaluations. Each of the undersigned is the current President of his/her respective chapter and would also be directly affected by this rulemaking.

Thank you in advance for your consideration of this request.

If you have any questions, or if you need additional information, please contact the undersigned.

Sincerely,

East Florida Chapter



Ana Arroyo, MAI
Orlando, FL
Florida Cert. Gen. #RZ3450
(407) 219-1817
anami.arroyo@gmail.com

orth east Florida Chapter



J. Marvin Ferebee, MAI, AI-GRS
Jacksonville, FL
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(904) 886-0683
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Florida Gulf Coast Chapter



Wesley Sanders, MAI
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Florida Cert. Gen. #RZ2911
(941) 234-4847
wsanders@nationalapg.com

South Florida Chapter



Barbara Johenning, MAI
Homestead, FL
Florida Cert. Gen. #RZ2682
(305) 807-7959
commercialpropertyconsulting@outlook.com

cc: Members of the Florida Real Estate Appraisal Board
Ms. Katy McGinnis, Director, Division of Real Estate
Mr. Paul Waters, Deputy Secretary, Professional Regulation

Ridenauer, Beverly

Subject: FW: Rule making Workshop regarding the 61J1-9.001 Notice of Development Rule making published in the Florida Register on April 3, 2018

Attachments: AI_Letter_to_DBPR_FREAB_Re_61J1-9.001_Rulemaking_04062018.pdf; ATT00001.htm

From: Crawford, Lori
Sent: Friday, April 06, 2018 2:53 PM
To: Ridenauer, Beverly
Subject: Fwd: Rule making Workshop regarding the 61J1-9.001 Notice of Development Rule making published in the Florida Register on April 3, 2018

From: Jennifer Marshall <jm4632@aol.com>
Date: April 6, 2018 at 1:36:53 PM CDT
To: "Crawford, Lori" <Lori.Crawford@myfloridalicense.com>
Subject: Rule making Workshop regarding the 61J1-9.001 Notice of Development Rule making published in the Florida Register on April 3, 2018

Ms. Crawford:

Attached to this email is a letter to the Florida Real Estate Appraisal Board/Department of Business Regulation requesting a Rule making Workshop regarding the 61J1-9.001 Notice of Development Rule making published in the Florida Register on April 3, 2018.

I am a designated member of the Appraisal Institute's (AI) Florida Gulf Coast Chapter of the four Chapters of the Appraisal Institute that have signed this letter/request. I own and operate a small real estate appraisal business in Venice and I am a state-certified residential real estate appraiser. My real estate appraisal business, and my ability to be able to perform evaluation services, would be directly impacted by any rules adopted by FREAB/DBPR regarding the standards of practice for evaluation services provided by state-certified real estate appraisers.

I too support the request of the AI chapters that FREAB/DBPR conduct a Rule making Workshop and/or negotiated rule-making regarding any changes to 61J1-9.001 regarding standards of practice for evaluations.

Thank you very much in advance for FREAB/DBPR's consideration of our request.

Please contact me if you have any questions.

Regards,

Jennifer Marshall, SRA, AI-RRS
Cert Res RD5335
JHM Appraisals, Inc
828 Carnoustie Drive
Venice, FL. 34293
(813)957-3230

The FDIC published the following notice on April 2, 2018. FDIC notice:
<https://www.fdic.gov/news/news/financial/2018/fil18014.pdf>

This increases the appraisal requirement threshold to \$500,000 for commercial properties. According to the FDIC, this will exempt an additional 15.7% of transactions from requiring an appraisal. For these transactions, banks can order an Evaluation Report.

According to the notice: For real estate-related financial transactions at or below the applicable thresholds, the interagency appraisal regulations require financial institutions to obtain an appropriate evaluation of the real property collateral that is consistent with safe and sound banking practices, but does not need to be performed by a licensed or certified appraiser or meet the other Title XI appraisal standards.

As an appraisal company small business owner, I believe the proposed rule 61J1-9.001, Standards of Appraisal Practice, will create an adverse impact on my business going forward. The rule would allow unfair competition by those with transaction licenses, real estate sales agents, to complete Evaluation Reports within the Interagency Guidelines set forth by the FDIC, and related parties, for transactions not requiring an appraisal. However, the proposed rule would require our business to only be allowed to complete Appraisal Reports. We could not complete an Evaluation Report without completing it in within an Appraisal Report, requiring additional unnecessary liability and cumbersome reporting requirements. Florida appraisal license should not be an "Appraisal Report" license, it is an appraisal license. Florida defines "appraisal" under 475.611 to include not only appraisal assignments, but appraisal services, analysis assignments, and appraisal review assignments. Not all appraisal services need to fit under the USPAP standard only intended for FRT's.

An Evaluation or Evaluation Report is separate from an Appraisal Report; otherwise, sales agents could not complete them without an appraisal license. Please do not remove my ability to compete with sales agents on a valuation service that I am better qualified to complete and will be in higher demand after the recent change by the FDIC. Please allow myself and my client to determine when full USPAP compliance is necessary, when it is not required by federal law.

I believe a rulemaking workshop is appropriate to consider rules similar to Georgia statutes that are allowed by HB 927. When performing an appraisal or appraisal service for any purpose other than a federally related transaction, an appraiser and their client should be able to determine the proper standards to use, in conjunction with the Ethics and Competency portion of USPAP. Georgia currently allows appraisers to work outside USPAP for Non-FRT, as well as standard state requirements similar to Florida. Allowing appraisers to follow the Ethics and Competency portions of USPAP, as well as state requirements, would bring clarification and level the playing fields for Evaluations and other appraisal services for Non-FRT appraisals and appraisal services. Please schedule a rulemaking workshop for this option to be explored.

Ridenauer, Beverly

Subject: FW: Request for Rulemaking Workshop - 61J1-9.001

From: Crawford, Lori
Sent: Friday, April 06, 2018 2:55 PM
To: Ridenauer, Beverly
Cc: McGinnis, Katy; McDonald, Allison; Cheneler, Al; Rachel Clark
Subject: Fwd: Request for Rulemaking Workshop - 61J1-9.001

From: Rachel Zucchi <rzucchi@rklac.com>
Date: April 6, 2018 at 12:59:09 PM CDT
To: "Crawford, Lori" <Lori.Crawford@myfloridalicense.com>
Subject: Request for Rulemaking Workshop - 61J1-9.001

Dear Ms. Crawford:

I am the Treasurer of the Florida Gulf Coast Chapter of the Appraisal Institute and was recently made aware of proposed changes to F.A.C. 61J1-9.001. Myself and my two business partners own and operate a commercial real estate appraisal company in Naples. We are all state-certified general real estate appraisers. Our commercial real estate appraisal business, and our ability to be able to perform evaluation services, would be directly impacted by any rules adopted by FREAB/DBPR regarding the standards of practice for evaluation services provided by state-certified real estate appraisers.

I support the request that FREAB/DBPR conduct a Rulemaking Workshop and/or negotiated rulemaking regarding any changes to 61J1-9.001 regarding standards of practice for evaluations.

Thank you very much for your consideration. Please contact me if you have any questions.

Sincerely,

Rachel

Rachel M. Zucchi, MAI, CCIM
State-Certified General Real Estate Appraiser RZ #2984
Partner / Managing Director
RKL Appraisal and Consulting, PLC
4500 Executive Drive, Suite 300 | Naples, FL 34119
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www.rklac.com

Rule Number	Rule Title	Date Rule Language Approved by Board	Rule Development Published	Notice Published	Adopted	Effective
61J1-2.001	Fees	2/5/2018	1/30/2018	3/27/2018 • Ltr from JAPC 4/2/18 • Response to ltr 4/16/18		
61J1-2.002	Renewal Period	2/5/2018	1/30/2018	3/27/2018 • Ltr from JAPC 4/2/18 • Response to ltr 4/16/18		
61J1-8.001	Citation Authority	2/5/2018	1/30/2018			
61J1-8.002	Disciplinary Guidelines	2/5/2018	1/30/2018	3/28/2018 • Ltr from JAPC 4/3/18 • Response to ltr 4/16/18 • Ltr from JAPC 4/19/18 • NOC 4/30/18 • Response to ltr 4/30/18		
61J1-9.001	Standards of Appraisal Practice	4/9/2018	4/3/2018 • Request for workshop 4/6/18 • Email corresp. regarding rule 4/26/18			
61J1-9.002	Standards of Professional Practice for Appraisal Management Companies; Development and Communications of Real Estate Appraisals	2/5/2018	1/30/2018	3/28/2018 • Ltr from JAPC 4/3/18 • Response to ltr 4/16/18		

61J1-9.001 Standards of Appraisal Practice and Evaluations.

All registered, licensed, or certified appraisers shall comply with the 2018-2019 Uniform Standards of Professional Appraisal Practice (USPAP), effective January 1, 2018, which is incorporated by reference. The copyrighted material may be viewed at the Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801. The incorporated material will be available for public inspection and examination at the Department of State, Administrative Code and Register Section, Room 701, The Capitol, Tallahassee, Florida 32399-0250.

Rulemaking Authority 475.614 FS. Law Implemented 475.613(2), 475.628 FS. History—New 8-29-06, Amended 3-24-09, 1-30-12, 4-10-14, 12-10-15, 12-31-17, _____.

Email correspondence regarding proposed rule:

From: Rachel Clark

Sent: Thursday, April 26, 2018 1:48 PM

To: 'francois@tampabay.rr.com' <francois@tampabay.rr.com>

Subject: RE: Evaluations Information

Thank you for sharing the information.

Rachel W. Clark
Assistant Attorney General
Administrative Law Bureau
Office of the Attorney General
The Capitol, PL-01
Tallahassee, FL 32399-1050
(850) 414-3300
(850) 922-6425 Facsimile
(850) 414-3751 Direct Line
Rachel.Clark@myfloridalegal.com

*** Florida has a broad public records law. Most written communications, including emails, to or from state officials are public records subject to disclosure upon request. ***

From: francois@tampabay.rr.com [<mailto:francois@tampabay.rr.com>]

Sent: Thursday, April 26, 2018 12:58 PM

To: Rachel Clark <Rachel.Clark@myfloridalegal.com>

Subject: FW: Evaluations Information

Rachel,

After securing Scott's permission to forward, I thought you might be interested in seeing his comments about FREAB and the position of the Appraisal Institute and their plan of action with respect to JAPC and beyond.

Frank
Francois (Frank) K. Gregoire IFA RAA

Gregoire & Gregoire, Inc.
Realtor - Appraiser
Office 727-344-3393
Mobile 727-420-3804
Fax 727-344-3395
francois@tampabay.rr.com
<http://fl.living.net/Realtor/gregoire>
<http://appraiseractive.blogspot.com>

From: Dibiasio, Scott <sdibiasio@appraisalinstitute.org>
Sent: Thursday, April 26, 2018 12:30 PM
To: francois@tampabay.rr.com
Subject: RE: Evaluations Information

Frank,

Please feel free to forward the TN information to anyone.

Our position is that FREAB should have not authority over state-certified appraisers when they are providing evaluation services. FREAB should promulgate rules clarifying when an appraiser may legally perform an evaluation (i.e., the 4 federal exemptions) – less than \$250K, business loans less than \$1M, CRE transactions less than \$500K, and some refinances. They should also clarify that an evaluation prepared by an appraiser is required to have a bold disclaimer stating that, “This is not an appraisal”. Once that disclaimer is put on an evaluation, then it should be 100% outside of FREAB’s jurisdiction – which is exactly how evaluations provided by brokers, sales associates, etc. are treated under 475.612(2) and(3), as well as evaluations provided by other non-appraiser service providers.

We’re not done with this by any means. We have a request into DBPR/DRE. We’ll wait for the evaluation/USPAP rule to be promulgated. We’ll comment appropriately then. We’ll challenge it to JAPC as being inconsistent with the statute/intent of the Legislature – which will go apoplectic that FREAB flipped the Legislature the finger. And who knows? Someone may be so inclined to take it to court if they’re not satisfied with the outcome. In my opinion, FREAB has gone down a path (at your and John Brennan’s suggestion) that they probably shouldn’t have gone down. They should have done EXACTLY what Tennessee did.

SD

From: francois@tampabay.rr.com <francois@tampabay.rr.com>
Sent: Thursday, April 26, 2018 12:05 PM
To: Dibiasio, Scott <sdibiasio@appraisalinstitute.org>
Subject: RE: Evaluations Information

Hi Scott,

Thanks for sending. I have talked with Randy Thomas about this in the past, but this clarifies things.

Honest question: What is the AI’s position about the complete “hands off” of any state responsibility for preparers of evaluations, at least as it applies to appraisers? Is that the aim; no state responsibility, just user responsibility?

I'd like to forward this to a few folks.

Frank
Francois (Frank) K. Gregoire IFA RAA
Gregoire & Gregoire, Inc.
Realtor - Appraiser
Office 727-344-3393
Mobile 727-420-3804
Fax 727-344-3395
francois@tampabay.rr.com
<http://fl.living.net/Realtor/gregoire>
<http://appraiseractive.blogspot.com>

From: Dibiasio, Scott <sdibiasio@appraisalinstitute.org>

Sent: Thursday, April 26, 2018 11:38 AM

To: francois@tampabay.rr.com

Subject: Evaluations Information

Hello Frank,

I hope you are doing well.

You may be interested in the following information. At least one state, with an evaluation law very similar to Florida's, doesn't have it's head up its ass as does Florida.

Regards,
SD

April 25, 2018

Tennessee Publishes Q&A on Real Estate Evaluations

The Tennessee Department of Commerce & Insurance, which includes the state's Real Estate Appraiser Commission, published on its website April 17 a Q&A focused on real estate evaluations performed by state-licensed and state-certified appraisers.

The publication clarifies that evaluations performed by licensed and certified appraisers in Tennessee are not required to comply with the Uniform Standards of Professional Appraisal Practice, and that an appraiser performing an evaluation is permitted to reference their credentials, including a state appraiser license or certification number and appraisal-related professional designations.

An explanation of what constitutes an evaluation and the situations in which they may legally be performed by appraisers licensed or certified in Tennessee also is addressed, noting that evaluations performed by appraisers do not fall within the regulatory purview of either the TDCI or the Tennessee Real Estate Appraiser Commission and they must include a disclaimer stating, "This is not an appraisal."

Tennessee law allows state-licensed or state-certified appraisers to perform an evaluation for federally regulated financial institutions when a USPAP-compliant appraisal is not required by federal law.

Read the [Tennessee Department of Commerce & Insurance Q&A](#).

Correspondence from JAPC Rule 61J1-8.002

Relevant rule section:

(r) Section 475.624(15) or 475.6245(1)(o), F.S. Has failed or refused to exercise reasonable diligence in developing or preparing an appraisal report.	1 year Probation to revocation and an administrative fine of \$1,000.	Up to 5 year suspension to revocation and an administrative fine of \$5,000.
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JAPC comment:

61J1-8.002(3)(r): Please explain how the penalty range of “1 year Probation to revocation and an administrative fine of \$1,000” specifies a meaningful range of penalties, which is required pursuant to section 455.2273(2). *See* § 120.52(8)(c), Fla. Stat.

61J1-9.002 Standards of Professional Practice for Appraisal Management Companies; Development and Communications of Real Estate Appraisals.

(1) Upon issuance of a registration number by the Department, an appraisal management company shall disclose its issued registration number on each solicitation for engagement and each engagement letter utilized in assigning an appraisal request for real estate appraisal assignments in Florida.

(2) An appraisal management company shall verify that an appraiser being added to its appraiser panel to appraise properties in Florida holds a license in good standing in Florida. The appraisal management company shall verify the status of the appraiser by contacting the Department or utilizing the National Registry of the Appraisal Subcommittee.

(3) Before or at the time an appraiser accepts an assignment, the appraisal management company shall require the appraiser to declare in writing or via electronic means that the appraiser receiving the assignment is a competent appraiser for the performance of the appraisal being assigned.

(4) An appraisal management company must include instructions to appraisers in letters of engagement to decline the assignment in the event the appraiser is not geographically competent or the assignment falls outside the appraiser's scope of practice restrictions.

(5) An appraisal management company cannot:

(a) Require that an appraiser prepare an appraisal if the appraiser, in the appraiser's own independent professional judgment believes that she or he does not have the necessary expertise for the assignment or for the specific geographic area and has notified the appraisal management company and declined the assignment;

(b) Require that an appraiser prepare an appraisal within a time frame that the appraiser, in the appraiser's own professional judgment believes does not afford he or she the ability to meet all the relevant legal and professional obligations, and the appraiser has notified the appraisal management company and declined the assignment; or

(c) Require that an appraiser provide the appraisal management company with the appraiser's digital signature or seal.

(6) An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with the Uniform Standards of Professional Appraisal Practice or any applicable laws or rules in connection with an appraisal, shall refer the matter to the Board if the failure to comply is likely to significantly affect the opinion of value.

(7) In complying with Section 475.629, F.S., all appropriate records may be maintained in printed electronic form. Such records shall include:

~~(a) For appraisals ordered, the name of the appraiser who performs the appraisal, the physical address or legal identification of the subject property, the name of the appraisal management company's client for the appraisal and the amount paid to the appraiser.~~

~~(b) Accounts, correspondence, memoranda, papers, books, and other records related to services provided by the appraisal management company.~~

~~(c) Records documenting any notices provided to appraisers removed from the appraisal management company's panel.~~

(8) When removing an appraiser from an appraisal management company's appraiser panel, the appraisal management company shall:

(a) Document the appraisal report or communication, appraisal review report or communication, or consulting assignment report or communication, supporting such action, if applicable;

(b) Document the provision of the appraiser with prior written notice as to the reasons for the appraiser's removal, in compliance with Section 475.6245(1)(s)8., F.S.; and

(c) Provide the appraiser the opportunity to respond to such notice prior to removal.

(9) Each solicitation for engagement by an appraisal management company for an appraiser's services must include the following items:

(a) The name of the AMC;

(b) Appraisal management company's registration number;

(c) If the assignment is retrospective the effective date must be provided;

(d) The specific intended use;

(e) Type of value;

(f) A description of the reporting level expected;

(g) The identification of the subject to include the property address, county, property type and property rights as requested by the client;

(h) Point of contact for discussion of conditions and scope of work;

(i) Other assignment conditions;

- (j) The expected delivery date; and
- (k) The terms of payment to the appraiser unless otherwise in a contract.

Rulemaking Authority 475.614, 475.6235 FS. Law Implemented 475.614, 475.6235 FS. History—New 6-26-13, _____.

Are evaluations regulated by the Tennessee Real Estate Appraiser Commission?

Andy Diehl - April 17, 2018 11:46

As long as the evaluation meets the requirements set forth in T.C.A. § 62-39-104(d), it is exempt from regulation. If it does not meet all requirements in T.C.A. § 62-39-104(d) and otherwise meets the definition of an appraisal, it is an appraisal and must follow all statutes and rules.

Interagency Appraisal and Evaluation Guidelines - <https://www.fdic.gov/regulations/laws/rules/5000-4800.html>

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Are there specific guidelines set forth by the Tennessee Real Estate Appraiser Commission, as to what must be included in an evaluation?

Andy Diehl - April 17, 2018 11:33

No, because evaluations are not regulated by the Commission there are no specific guidelines set forth or enforced by the Commission. Evaluation guidelines are set forth by the Interagency Appraisal and Evaluation Guidelines (IAEG). IAEG guidelines can be found at <https://www.fdic.gov/regulations/laws/rules/5000-4800.html>.

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As a Tennessee licensed or certified appraiser, can I perform an evaluation?

Andy Diehl - April 17, 2018 11:34

Yes.

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Can an appraiser perform an evaluation for another use or user that is not a part of a Federal Related Transaction (FRT)?

Andy Diehl - April 17, 2018 11:32

No. The definition of an evaluation requires that the evaluation be of the value of real estate serving as collateral for a loan made by a federally regulated financial institution or to any evaluation of the value of the assets of a trust held by the institution.

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[If an exhibit in an evaluation has the word "appraisal" on it and the balance of the report meets the evaluation requirements set forth in T.C.A. § 62-39-104\(d\), does it become an appraisal?](#)

[Does attaching your qualifications to an evaluation make it an appraisal \(assuming the report meets the evaluation requirements set forth in T.C.A. § 62-39-104\(d\)\)?](#)

[Does using a professional designation on an evaluation make it an appraisal \(assuming the report meets the evaluation requirements set forth in T.C.A. § 62-39-104\(d\)\)?](#)

[Does placing a Tennessee appraiser license number on an evaluation make it an appraisal \(assuming the report meets the evaluation requirements set forth in T.C.A. § 62-39-104\(d\)\)?](#)

[Are there specific guidelines set forth by the Tennessee Real Estate Appraiser Commission, as to what must be included in an evaluation?](#)

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Can I include a certification with an evaluation that is required by a professional organization of which I am a member?

Andy Diehl - April 17, 2018 11:32

Yes. As long as the requirements are met for the report to be considered as an evaluation and a person not registered as an appraiser does not represent themselves as so registered.

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[Does attaching your qualifications to an evaluation make it an appraisal \(assuming the report meets the evaluation requirements set forth in T.C.A. § 62-39-104\(d\)\)?](#)

[Does using a professional designation on an evaluation make it an appraisal \(assuming the report meets the evaluation requirements set forth in T.C.A. § 62-39-104\(d\)\)?](#)

[Does placing a Tennessee appraiser license number on an evaluation make it an appraisal \(assuming the report meets the evaluation requirements set forth in T.C.A. § 62-39-104\(d\)\)?](#)

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Does an evaluation, performed by a licensed or certified appraiser, have to meet USPAP requirements?

Andy Diehl - April 17, 2018 11:35

No, as long as the evaluation meets the requirements set forth in T.C.A. § 62-39-104(d). If the evaluation does not meet those requirements and otherwise meets the definition of an appraisal, it is an appraisal and must follow USPAP pursuant to Tenn. Comp. R. & Regs § 1255-05-.01(2).

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Switch off USPAP

BY [JONATHAN MILLER](#) · PUBLISHED JUNE 29, 2018

[States That Allow Appraisers to Switch off USPAP →](#)

Senseless Acts Harmful to the Profession...

This past Tuesday, (June 19, 2018), I was a keynote speaker at the Ohio Coalition of Appraisal Professionals ([OCAP](#)). I've always seen this organization as one of the stronger state coalitions in the context of getting things done at the legislative level. I had been looking forward to attending the Columbus conference for several months.

After I made my presentation, I listened to the next speaker from the Appraisal Institute. I was startled because the speaker said there were about 5 states that currently allow certified appraisers to turn off their USPAP compliance and about 5 more that were to follow them soon including Virginia. I texted and emailed a number of my coalition and regulatory appraiser colleagues and spoke with several OCAP board members. No one was aware of any of this.

Now if any of you know my good friend and appraiser [Pat Turner of VACAP](#), you know that we would all have known this by now. The Virginia law that Scott DiBiasio of the Appraisal Institute sneaked in at the last second to sidestep VACAP got passed against the wishes of nearly all residential appraisers in Virginia. But it was immediately neutered as explained in the following summary.

I reached out to The Appraisal Foundation (TAF) and was given this summary of all state activity on this issue. In other words, NO STATE has effectively agreed to this.

Here is the information I received from TAF as a direct quote:

The Appraisal Foundation is aware of AI-promoted activities regarding evaluations in the following states during 2017 and 2018:

Florida: After two years of failed attempts before the Florida Real Estate Appraiser Board to change regulations to allow alternative standards and evaluations without complying with USPAP, AI was successful in getting state law changed to allow appraisers to follow the Interagency Guidelines “and other standards as prescribed by the Appraisal Board.” (See [Florida 475.612\(7\)](#)) In April, by a 7-1 vote, the Board decided to proceed with developing a rule that requires Florida appraisers to follow USPAP regardless of assignment. At the Florida Board’s June meeting, AI raised a procedural issue and demanded reconsideration, so a workshop on the issue is scheduled in August.

California: The bills before the CA legislature have gone through several iterations of carving up USPAP. The original version during this legislative session gave appraisers six exemptions to compliance with USPAP. The current version (See [SB 70](#)), that has not passed but is likely to in the coming weeks, is whittled down to a single issue. It allows CA appraisers to not comply with USPAP’s requirements regarding intended users of Restricted Appraisal Reports. The section of this new law has a sunset date of Jan 1, 2020 (to coincide with the effective date of USPAP 2020-21). AI leadership has stated that if the ASB’s current exposure draft concept of an appraisal report is adopted, the CA law will be moot (as will all their efforts regarding evaluations).

Kansas: After failing in 2017, AI once again attempted a legislative effort this year that would have allowed evaluations to be performed in conformance with USPAP or the AI standards. Opposition included the Kansas Appraiser Board and the Kansas Chapter of AI. The bill died in committee on May 4, 2018. (See [KS HB2414](#))

North Carolina: After a failed attempt in 2017 by AI in the state legislature regarding exemptions to following USPAP for evaluations and certain other transactions (See North Carolina [S576](#) and [H431](#)), AI requested that the state appraiser board take up the issue. The legal staff of the board subsequently ruled that the board did not have the authority to enact such regulation.

Virginia: Legislation passed in 2017 that would allow appraisers to perform evaluations without adhering to USPAP. But subsequent legal analysis by the Virginia appraiser board

determined that the definitions of appraisal and evaluations were too similar so the board determined that appraisers must still comply with USPAP regardless of assignment type. (See [Virginia Real Estate Appraiser Board Guidance Document issued 5/16/17](#)). New legislation was then introduced to clarify the definition of evaluation (See [Virginia HB 1453](#)) It passed and becomes effective on July 1, 2018.

Texas: The Texas Board has proposed a rule for public comment (See [22 TAC §155.3](#)) that they promote “to implement federal law raising the threshold under which an appraisal is not required in a commercial real estate transaction.” The proposed rule would allow Texas appraisers to prepare evaluations in commercial real estate transactions with a transaction value of \$500,000 or less without complying with USPAP as long as they include a specific disclaimer as spelled out in the rule. The staff’s request for emergency adoption was unanimously denied by the Board; the rule has not been adopted; the public comment period is open (see the [4/23/2018 TACLB Meeting Record/Video, Items 20 and 22](#)).

These are the only states we know of with legislative activities during 2017 and 2018 regarding evaluations. The Appraisal Foundation has no government relations staff, so we acknowledge there may be others about which we are not aware. We appreciate the appraisers and regulators who brought these activities to our attention as they sought help fighting what they described as senseless acts that are harmful to the profession. We also recognize that there are some states whose appraiser laws and regulations only apply to federally-related transactions (FRTs) as defined by the federal financial institution regulatory agencies, but their statutes have been in place for years. Evaluations do not come under the definition of FRTs.

We have also been in public settings where AI has referenced Georgia and Tennessee when speaking about evaluations.

Georgia: Georgia has a rule adopted in February, 2013 regarding evaluation reporting formats: Ga. r. 539-3-.04: If the Evaluation Appraisal is prepared for a nonfederal financial institution and said institution is not regulated by a federal financial institutions regulatory

agency, and if USPAP compliance is not required by said institution for the appraisal reporting format, then the Evaluation Appraisal may be prepared in any reporting format, such as, but not limited to a self-contained appraisal report, a summary appraisal report, and a restricted use appraisal report if the reporting format meets the requirements of the nonfederal financial institution.

Tennessee: Tennessee appraiser laws last updated in 1994 do not apply to evaluations but also do not prohibit appraisers from doing an evaluation as long as it is marked on its face, “this is not an appraisal.” (See Tenn. [Code Ann. § 62-39-104](#)). At a recent Tennessee Board meeting (see [January 2018 meeting video recording](#) starting around 1:06 through 1:20), the members and audience participant discussed evaluations and lamented that the Board has no jurisdiction over those who do them – nor does any other body – so it is bad for public trust.

[Jonathan Miller](#)

President & CEO at [Miller Samuel Inc.](#)

Jonathan Miller is President and CEO of Miller Samuel Inc., a real estate appraisal and consulting firm he co-founded in 1986. He is a state-certified real estate appraiser in New York and Connecticut, performing court testimony as an expert witness in various local, state and federal courts.



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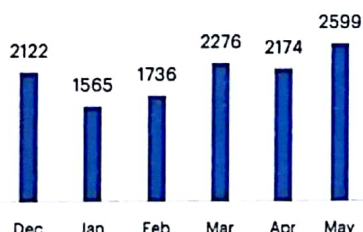
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Swathy Prithivi

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RULES
OF
GEORGIA REAL ESTATE APPRAISERS BOARD

CHAPTER 539-3
STANDARDS FOR APPRAISALS

TABLE OF CONTENTS

539-3-.04 Standards for Developing and Reporting an Evaluation Appraisal.

In lieu of and notwithstanding anything to the contrary found in Rules 539-3-.01 and 539-3-.02 herein, if an appraiser performs an Evaluation Appraisal, as hereinafter defined, the appraiser shall perform such appraisal subject to the following requirements:

(1) An "Evaluation Appraisal" is defined as follows:

An appraisal which is limited in its scope and development to the requirements for Evaluations as set forth for a lender by a federal financial institutions regulatory agency or any nonfederal financial institutions regulatory agency as the case may be and as defined in and consistent with the Interagency Appraisal and Evaluation Guidelines ("Evaluation Guidelines") promulgated by the Office of the Comptroller of the Currency, et al., effective December 10, 2010.

(2) Transactions for which an Evaluation Appraisal is permitted:

- (a) The transaction has a value equal to or less than the threshold amount of \$250,000.00;
- (b) The transaction involves a business loan with a transaction value equal to or less than a business loan threshold of \$1,000,000.00 and is not dependent on the sale of, or rental income derived from, real estate as the primary source of repayment; or
- (c) The transaction involves an existing extension of credit at a lending institution provided that:
 - (1) There has been no obvious and material change in market conditions or physical aspects of the property that threaten the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies; or,
 - (2) There is no advancement of new monies other than funds necessary to cover reasonable closing costs;

(3) Development of Evaluation Appraisals:

At a minimum, the Evaluation Appraisal shall contain the following:

- (a) Location of the real property;
- (b) Description of the real property and its current and projected use;
- (c) An estimate of the property's market value in its actual physical condition, use and zoning designation as of the effective date of the evaluation, with any limiting conditions; A valuation method that does not provide a property's market value or

sufficient information and analysis to support the value conclusion is not acceptable as an Evaluation Appraisal. While a broker price opinion (BPO), a competitive market analysis (CMA), an automated valuation model (AVM), and a tax assessment value (TAV) may be useful in developing an Evaluation Appraisal, the information obtained from these methods of valuation is insufficient standing alone to meet all of the criteria necessary to be an Evaluation Appraisal.

- (d) A description of the method used to confirm the property's actual physical condition and the extent to which an inspection was performed;
- (e) A description of the analysis that was performed and the supporting information that was used in valuing the property;
- (f) A description of any supplemental information that was used in the development of the Evaluation Appraisal when using an analytical method, such as an automated valuation model, or technological tool;
- (g) A list of all sources of information used in the development of the Evaluation Appraisal including the following:
 - (1) External data sources such as market sales databases and public tax and land records;
 - (2) Property-specific data such as previous sales data for the subject property, tax assessment data, and comparable sales information;
 - (3) Evidence of a property inspection;
 - (4) Photos of the property;
 - (5) A description of the neighborhood;
 - (6) Local market conditions;
 - (7) Name and contact information for the appraiser who prepares the Evaluation Appraisal;
 - (8) A signature for the appraiser who prepares the Evaluation Appraisal;
 - (9) Factors setting forth the transaction conditions consistent with 539-3-.04(2).

(4) If the Evaluation Appraisal is prepared for a nonfederal financial institution and said institution is not regulated by a federal financial institutions regulatory agency, and if USPAP compliance is not required by said institution for the appraisal reporting format, then the Evaluation Appraisal may be prepared in any reporting format, such as, but not limited to a self-contained appraisal report, a summary appraisal report, and a restricted use appraisal report if the reporting format meets the requirements of the nonfederal financial institution.

(5) Certification. The Evaluation Appraisal report shall include the following items in language substantially similar to the following:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest or bias with respect to the parties involved.

- I have no bias with respect to the property that is the subject of this report or to the parties involved in this assignment.
- my engagement in this assignment or in any future assignment is not contingent upon developing or reporting predetermined results.
- my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Georgia Real Estate Appraiser Classification and Regulation Act and the Rules and Regulations of the Georgia Real Estate Appraisers Board.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated and the professional assistance provided must be disclosed.)

Authority O.C.G.A. Secs. 43-39A-13, 43-39A-18.

Ridenauer, Beverly

From: McGinnis, Katy
Sent: Thursday, April 05, 2018 10:27 AM
To: McDonald, Allison; Ridenauer, Beverly; Crawford, Lori
Subject: Fwd: New Threshold Change
Attachments: New Rule - threshold increase final rule (002).pdf; ATT00001.htm

Please see the below update from Vicki. Thank you!

Sincerely,
 Katy McGinnis, Director

Division of Real Estate
 400 West Robinson Street, Suite N801
 Orlando, FL 32801
 Voice: (407) 245 - 0527
 Cell: (407) 516 - 9318
 Fax: (407) 317- 7245

Sent from my iPad

Begin forwarded message:

From: "Vicki Ledbetter Metcalf" <vicki@asc.gov>
To: "Mark Murphy" <MMurphy@azdfi.gov>, "'jennifer.childears@state.de.us'"
 <jennifer.childears@state.de.us>, "McGinnis, Katy" <Katy.McGinnis@myfloridalicense.com>, "Alan C. Taniguchi"
 <ataniguc@dcca.hawaii.gov>, "Cesley Metcalfe" <Cesley.Metcalfe@ibol.idaho.gov>, "March, Brandy"
 <brandy.march@iowa.gov>, "Bivins, Karen L" <Karen.L.Bivins@maine.gov>, "Emilio Aviles"
 <AvilesE@dca.lps.state.nj.us>, "'KirkC@dca.lps.state.nj.us'" <KirkC@dca.lps.state.nj.us>, "COOPER Gae Lynne *
 ACLB" <Gae.Lynne.COOPER@oregon.gov>, "Douglas Oldmixon" <Douglas.Oldmixon@trec.texas.gov>, "Kristen
 Worman" <Kristen.Worman@trec.texas.gov>, "'nathalie.hodge@dlca.vi.gov'" <nathalie.hodge@dlca.vi.gov>,
 "Allison, Kreg" <Kreg.Allison@illinois.gov>, "Weaver, Brian" <Brian.Weaver@illinois.gov>
Subject: New Threshold Change

Good Morning

This is just a note to pass on a recently adopted regulatory change. The Banking Agencies (Federal Reserve, OCC, FDIC, and NCUA) have increased the threshold level above which a Licensed or Certified appraiser is need for Commercial Transactions to \$500,000. The rule is attached. Scroll down to page 51 for the actual text adopted by each agency. The threshold (De Minimis) has not changed for residential transactions and, therefore, remains \$250,000.

Realtor Magazine

Fewer Commercial Deals Will Need Appraisals

April 30, 2018

A new federal rule is expected to exempt nearly one-third of commercial property sales from needing an appraisal. The rule, which was adopted by the Federal Reserve Board, Federal Deposit Insurance Corp., and Office of the Comptroller of the Currency, doubles the threshold for commercial real estate deals that require an independent appraisal.

Under the new rule, commercial property sales of \$500,000 or less are exempt from the appraisal requirement. Financial institutions will still need to perform a property evaluation for these deals, but they no longer need an independent appraiser to complete it. The rule sets out to reduce time, cost, and regulatory burdens associated with smaller real estate deals, analysts say.

“Although the property sales total affected by this rule change is a drop in the bucket compared to overall commercial property volume, the cost savings are noteworthy,” says Justin Baskt, CoStar director of capital markets. “For example, if we estimate appraisal costs at between \$2,000 and \$4,000 per transaction, this represents an aggregate savings of \$300 million to \$600 million.” Under the new \$500,000 threshold, 31.9 percent of property sales in the CoStar database would be exempt from the appraisal requirement.

Some critics have expressed concerns over the new rule. James L. Murrett, president of the Appraisal Institute, told the CoStar Group that raising the threshold is a risky move. “Without a doubt, the final rule increases risk to the commercial real estate lending system,” Murrett says. “Seen through the lens of loosening regulations, the final rule may make sense. But from a safety and soundness perspective, the final rule raises significant concerns.” He says he is concerned it causes similar conditions that occurred during the run-up to the financial crisis, when “appraisal and risk management were thrust aside to make more—not better—loans.”

Others are welcoming the change. “The appraisal world is getting faster and cheaper, and this change creates efficiency for the banking regulators to be a little more nimble and relax some of the standards put in place after the financial crisis,” says John Busi, president of the valuation and advisory group at Newmark Knight Frank. “Of course, appraisers are going to be upset by it because many have had business on commercial property under \$500,000.”

Source: “[New Federal Rule Exempts Nearly One-Third of Commercial Property Sales From Appraisals](#),” CoStar Group (April 27, 2018)

April 27, 2018

By Randyl Drummer (rdrummer@costar.com)

New Federal Rule Exempts Nearly One-Third of Commercial Property Sales from Appraisals

Doubling of Loan Price Threshold to \$500,000 Removes Appraisal Requirement from More Than \$65 Billion in U.S. Commercial Properties

Office of the Comptroller of the Currency, Constitution Center, Washington, D.C.

A new federal rule doubling the threshold for commercial real estate deals requiring an independent appraisal will reduce the time, cost and regulatory burden associated with processing smaller real estate deals, banking and real estate analysts say.

The Federal Reserve Board, the Federal Deposit Insurance Corp. and the Office of the Comptroller of the Currency adopted new rules exempting commercial property sales of \$500,000 or less from the appraisal requirement. Regulators originally proposed raising the minimum from the current \$250,000 to \$400,000 but bumped it up to \$500,000 after determining the higher threshold posed "no material loss risk to financial institutions."

Under the new rule which used CoStar's comparable sales data and repeat-sale indices to track pricing changes and other sales metrics over time, financial institutions must still perform a property evaluation for deals of \$500,000 and below, but do not have to engage an independent appraiser.

"Deregulation is a major theme of the Trump Administration and this updated regulation is a smart move," according to Justin Bakst, CoStar director of capital markets. "Moving the [sale] threshold up to \$500,000 creates very little additional risk to the system," he added.

Comps Data Used to Track Smaller Deals

In determining the level of increase, the agencies considered the change in prices for commercial properties measured by the Federal Reserve's Commercial Real Estate Price Index (CRE Index). Since 2012, the CRE Index has been compiled using data from the CoStar Commercial Repeat Sale Index (CCRSI) as one of its data sources.

"The agencies examined data reported on the call report and data from the CoStar Comps database to estimate the volume of commercial real estate transactions covered by the existing threshold and increased thresholds," according to the final rule.

Bakst said the agencies determined the small transactions affected by the new threshold, while large in number, did not create the type of leverage and risk that contributed to the last financial crisis. Banks have healthier capital ratios today and commercial real estate leverage has largely remained well under control, he added.

Banks can perform acceptable loan evaluations in house using sources of comparable sales data like CoStar, Bakst added.

"Although the property sales total affected by this rule change is a drop in the bucket compared with overall commercial property volume, the cost savings are noteworthy," Bakst said. "For example, if we estimate appraisal costs at between \$2,000 and \$4,000 per transaction, this represents an aggregate savings of \$300 million to \$600 million."

Banking regulators carved out an exception for construction loans on one- to four-family residential properties, which will


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CONTINUED: New Federal Rule Exempts Nearly One-Third of Commercial Property Sales from Appraisals

no longer be included in the same category as commercial property loans to avoid potential confusion with single-family permanent financing and as an added consumer protection for home buyers. The sale threshold for appraisals on those properties will remain unchanged at \$250,000.

Lower Threshold Was a 1990s Relic

Financial industry analysts who commented on the rule change said that the previous commercial transaction threshold had not kept pace with the price appreciation of commercial property.

For example, the average price of a property valued at \$250,000 when regulators set the previous minimum threshold 24 years ago in 1994 has now more than tripled to \$760,000. Raising the threshold to \$500,000 provides a recession-resistant buffer, Bakst said.

Under the new \$500,000 threshold, 31.9 percent of property sales in the CoStar database would be exempt from the appraisal requirement. In terms of dollar volume, however, the properties now exempt from appraisals comprise just 1.8% of the overall dollar volume of loans in the CoStar database.

Before the final rule was approved, there were 13 different categories of loan transactions that qualified for exemption from the appraisal requirement, including a general exemption for all real estate-related transactions with a value of \$250,000 or less. The new rule adds a 14th exemption for "commercial real estate transactions" not secured by a single 1-to-4 family residential property.

"For commercial real estate transactions exempted from the appraisal requirement as a result of the revised threshold, regulated institutions must obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices," the new rule states.

Are Small Loans Risky for Small Banks?

Some critics, namely appraisers, take issue with the agency findings. James L. Murrett, president of the Chicago-based Appraisal Institute trade association representing nearly 19,000 appraisal professionals in about 60 countries, said raising the threshold is "confounding" given concerns expressed by the same agencies about commercial property pricing and loan risk management.

The OCC and Fed have warned that rapidly appreciating property prices in some commercial property segments and rising concentrations of commercial property loans, particularly among smaller banks with \$1 billion to \$10 billion in assets, could heighten risk to the nation's banking system.

"Without a doubt, the final rule increases risk to the commercial real estate lending system," Murrett said. "Seen through the lens of loosening regulations, the final rule may make sense. But from a safety and soundness perspective, the final rule raises significant concerns."

Murrett said that an increase in property evaluations without appraisers will likely cause a return to the conditions during the run-up to the financial crisis, when "appraisal and risk management were thrust aside to make more, not better, loans."

Smaller institutions, which are less likely to maintain appraisal departments, are more likely to be susceptible to breakdowns in appraisal independence with fewer controls in place, he added.

Murrett said the decision increases the importance of modernizing the regulatory structure governing appraisals, including positioning appraisers to better offer evaluation services.

"Appraisers need to be nimbler in today's marketplace - not only to compete, but to help maintain safety and soundness of the real estate financial system."

Big Shops Don't Play in Small Loan Pools

Appraisal operations in the largest commercial real estate services companies likely won't be affected by the rule change



CONTINUED: New Federal Rule Exempts Nearly One-Third of Commercial Property Sales from Appraisals

since their main business is more sophisticated and involves providing valuations for complex property assets priced above \$500,000, said John Busi, president of the valuation and advisory group at Newmark Knight Frank.

The appraisal world is getting faster and cheaper and this change creates efficiency for the banking regulators to be a little more nimble and relax some of the standards put in place after the financial crisis," Busi said.

"Of course appraisers are going to be upset by it because many have had business on commercial property under \$500,000," said Busi. But he added that smaller appraisal shops should be nimble enough to adapt and bring in work without suffering a large decline in fees.

"We view the recent increases in thresholds for appraisal requirements as an opportunity for lenders, borrowers, and appraisers," added Chris Roach, CEO with BBG, one of the nation's largest pure-play valuation and appraisal companies with 27 U.S. offices.

Roach said BBG's valuation specialists have evolved from a traditional appraisal practice to a more diverse valuation practice for a variety of clients.

"We stand by our high-quality valuation products, no matter the size of the loan," Roach said. "But with these revised loan amount guidelines, we are well-positioned for growth in our evaluation product."

a.hover{text-decoration:none;} a.hover:hover{text-decoration:underline;}Randyl Drummer, Senior News Reporter
 CoStar Group



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Threshold of a new era

The increased threshold for commercial loans requiring appraisals is bringing uncomfortable change — but perhaps opportunity as well

by Peter Haapaniemi



ILLUSTRATIONS: MASTERFILE



"Some of the larger lenders have been performing evaluations for a while, and the community and regional banks are starting to realize that to compete with the larger banks, they are going to have to use that type of product."

— Rex S. Garrison, MAI, SRA, AI-GRS

For more than 20 years, banks have been required to get formal appraisals for commercial real estate loans of more than \$250,000. This spring, that requirement changed dramatically.

In April, the Federal Deposit Insurance Corp., the Federal Reserve Board and the Office of the Comptroller of the Currency issued a final rule that doubled that threshold to \$500,000. Some questioned this loosening of the rules at a time when several observers — including some in those very agencies — expressed concerns about increased risk.

Many appraisers consider the new threshold unwelcome because they see it reducing the need for their services. However, a number of lenders and appraisers say the shift may not be as momentous as anticipated — and may even create opportunities for appraisers who are able to adapt, innovate and embrace new ways of doing business.

Limits to the problem

The \$500,000 threshold represents a significant change, but there are several factors that might temper its impact on appraisers, including what hasn't changed: Regulators did not alter the long-standing \$250,000 threshold level for one- to four-unit single-family residential loans. They also maintained the \$1 million threshold level for business loans for owner-occupied commercial real estate.

Geography also will play a role in who is affected. In large urban areas, for example, most commercial loans will be well above the \$500,000 threshold, while loans for projects outside large metropolitan areas could very well be under the threshold.

"It's going to be the smaller and rural areas that are affected the most," says Rex S. Garrison, MAI, SRA, AI-GRS, owner of Garrison Appraisal Services in Johnson City, Tennessee. Garrison says that while prices in some major cities have spiked and therefore shouldn't see much change from the threshold increase, "in our market, it's going to make a big difference."

Of course, lenders will still need assur-

ance of a property's value before making loans for properties below the \$500,000 threshold, and that typically means evaluations, which can be completed by non-appraisers. Banks have been using evaluations for years, and a key concern for appraisers is that the practice will significantly increase in some markets due to the threshold change.



The question is, how much? Here, it's important to recognize that the dollar amount of the loan is just one factor that helps determine whether an appraisal or an evaluation is appropriate. "Evaluations are supposed to be for low-leverage, low-risk loans," says Justin Slack, MAI, SRA, AI-GRS, AI-RRS, first vice president and commercial appraisal manager at Home-

Street Bank in Seattle. For example, agricultural land or land being considered for commercial development might not be a good candidate for an evaluation. "There may be entitlements or water rights involved, or questions about whether it can be built on or not. So a request for a land loan might technically qualify for evaluation based on the dollar amount on the loan, but be the wrong property for an evaluation," he explains.

Douglas A. Potts Sr., MAI, AI-GRS, vice president and chief appraiser at Commerce Bank in St. Louis, says his institution studied the impact that the new threshold might have on appraisals. "Our bank has a robust evaluations program that we have administered in-house for 10 years," he says. "As a result, we were able to easily look at our commercial real estate transactions between \$250,000 and \$500,000 and see how many can convert to evaluations — and it was well under 10 percent. In our case, there should be relatively little impact on appraisals."

Other lenders could see more of an uptick, in part because of the increasing prominence of the evaluation option. "I have had several clients contact me after they received word that the threshold had been increased, asking what they can do about evaluations," says Garrison. "Seeing the threshold increase has really opened the door for them to jump in and try to get evaluations." They are also looking at the competition, he adds: "Some of the larger lenders have been performing evaluations for a while, and the community and regional banks are starting to realize that to compete with the larger banks, they are going to have to use that type of product."

The evaluation opportunity — and challenge

While the numbers vary by lender and region, the use of evaluations is expected to increase, continuing a trend that has been underway for a while. This shift has brought a number of national providers into the market to perform evaluations — often without engaging appraisers.



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“The products wouldn’t have to meet USPAP, but there could be a reasonable set of standards and guidelines for them, which would create another source of business for appraisers.”

— Douglas A. Potts Sr., MAI, AI-GRS

Nevertheless, there are opportunities for appraisers in this changing landscape. “Some of the other [non-appraiser] evaluation providers that are starting to come in are less qualified,” says Slack. “I would rather hire an appraiser to do what I call a limited scope appraisal that would technically qualify for an evaluation. Appraisers are the most qualified and the best suited for it.”

There also are regulatory challenges to consider. A majority of states require that any type of valuation comply with the Uniform Standards of Professional Appraisal Practice, making it difficult for appraisers to do evaluations. Some states have loosened those regulations, while others have non-mandatory requirements for USPAP. This patchwork means that for the time being, the opportunity could be limited by where the appraiser works.

“Every lender client that I have talked with says they want appraisers to do the evaluations,” says Garrison. “However, in most states, appraisers either can’t do evaluations or aren’t willing to do them because they are concerned with USPAP issues. Right now, we have two reporting formats: the appraisal report and restricted appraisal report.” Many appraisers who are writing evaluations are doing so under the restricted appraisal format, Garrison explains. “A lot of lenders’ loan policies say they can’t accept restricted appraisals. It’s a conundrum for appraisers and clients.”

In addition, evaluations have become commodity offerings, which means appraisers may have to adopt new techniques in order for them to be profitable. On a personal level, many might find it hard to adjust to doing anything outside USPAP standards. “That’s the only world that many appraisers know,” says Garrison.

Adjusting to a changing market

Appraisers who want to take advantage of this changing environment will need to be innovative. Garrison says that in Tennessee, new regulations allow appraisers to perform evaluations separately, outside of USPAP requirements; the Tennessee Real

Estate Appraiser Commission on April 17 issued a Q&A on how appraisers can complete evaluations.

“The approach I have taken is to create an LLC, a separate company, to be able to do evaluations,” Garrison says. He started the company about a year ago with a business model designed around evaluations, but only recently started marketing it. “It was slow at first, as it took smaller banks time to get comfortable with the evaluation product, but now I’m starting to see an increase in volume,” he says.

Garrison adds that he had been reluctant to make the shift to evaluations, but, “as in any profession, if you do not adapt to the demands of the marketplace, you will no longer be relevant.” He expects the threshold increase will force many appraisal firms in smaller markets to reevaluate their business model.

Potts says he expects evaluations “to be a heavily commoditized sector of the business, like residential appraising. But I think there is a way for appraisers to do them profitably.” For example, the industry could develop several standard evaluation products, then appraisers could compete on those. “The products wouldn’t have to meet USPAP, but there could be a reasonable set of standards and guidelines for them, which would create another source of business for appraisers,” Potts explains.

Appraisers might also build on that approach by offering suites of various products with different pricing, tailored to specific client needs. These could include products that support certain loan refinancings, where banks want more than an evaluation but less than an appraisal. Or, suggests Garrison, appraisers might look at providing market trend reports, which can be required when lenders are using evaluations. “I am often asked for information about the market — what it’s doing, what property types are doing well, what types aren’t doing well. So appraisers in the smaller markets may want to get into a consulting type of thing,” he says.



Regulatory change: Finding long-term solutions

In many states, regulatory change will be required to make business innovations practical.

Potts explains that appraisers currently operate under a “regulatory trifecta,” where “first there’s a definition that says that anything that’s a value estimate is an appraisal. And then we say, If you are doing appraisals, you’ve got to be licensed. And then close up the loop and say, If you are a licensed appraiser, the only standard you can follow is Uniform Standards of Professional Appraisal Practice.” Together, he says, those rules have essentially kept appraisers out of the evaluations business — while marketplace demand for such products is growing.

To underscore the impact of the regulatory trifecta and the growing demand for new types of valuation products, Potts points out that in 1995 there were about 9 million loans in the U.S. with a total value of about \$900 billion, most of which were secured by real estate.

Today, there are more than 25 million loans with a total value of \$3.2 trillion. “I tell people that the volume of work has gone up by three times in that period, and I ask them if they are three times busier today,” says Potts. He notes that the answer, typically, is silence.

Fortunately, many states are rethinking their regulatory approach to appraisals. “States have started saying, We think appraisers are probably the best valuers out there, so let’s let them do that,” says Slack.

What about states that aren’t rethinking their approach? Potts suggests appraisers lobby them to do so: “They can work within their states to help modify regulations to provide more flexibility for appraisers to practice under additional standards or for allowances for evaluations.” He acknowledges that can take time, “but when we find solutions to the regulatory trifecta, we’ll free up the creativity of a lot of very smart people.” ◀

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