



Authorized by Congress as the Source of Appraisal  
Standards and Appraiser Qualifications

December 19, 2019

Senator Sherrod Brown  
Ranking Member  
Senate Committee on Banking,  
Housing and Urban Affairs  
534 Dirksen Senate Office Building  
Washington, DC 20510

Congresswoman Maxine Waters  
Chairwoman  
House Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

Dear Senator Brown and Chairwoman Waters:

The Appraisal Foundation, authorized by the U.S. Congress as the source of valuation standards and appraiser qualifications for the past thirty years, is very concerned about dilution of the original Congressional intent of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). We respectfully request your authorization of a Government Accountability Office (GAO) study regarding this issue.

Title XI was enacted by Congress in response to the numerous valuation related issues that came to light as a result of investigations and hearings into the cause of the savings and loan crisis of the mid-1980s. These appraisal regulatory provisions were enacted to help ensure the future stability of the deposit insurance fund. While Congress envisioned that most real estate related transactions would be covered by Title XI, that is no longer the case. The Appraisal Subcommittee (ASC), the entity created and charged under Title XI to monitor the appraisal related actions of the Federal financial institutions regulatory agencies (Agencies), estimated in its 2018 report to Congress that *“at least 90 percent of residential mortgage loan originations are not subject to the Title XI appraisal regulations.”*

There are many examples of how the Agencies over the past three decades have taken steps to curtail the reach of Title XI.

**Threshold Increases:** The di minimus threshold, the amount of the transaction below which an appraisal is not required, has been increased numerous times. The Agencies quickly raised the amount from \$50,000 to \$100,000 and then again to \$250,000. Earlier this year the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB) all increased the threshold to \$400,000. The National Credit Union Administration (NCUA) has also recently proposed the same increase. To put this amount into perspective, according

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to the National Association of Realtors (NAR) the average sales price of an existing home in October of this year was \$270,900.

**Regulatory Exemptions:** The Federal financial regulatory agencies have adopted thirteen regulatory “carve-outs” to reduce the number of transactions that are classified as federally regulated transactions and thereby covered by the provisions of Title XI. A copy of these exemptions is attached for your reference. One such exemption is

*a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate.*

Even though such transactions remain in the lending institutions portfolio and are covered by the deposit insurance fund, under this exemption they are not considered federally related transactions subject to the protections of Title XI.

**Appraisal Waivers:** Title XI contains a provision for the ASC to grant temporary waivers if it is determined that there is a scarcity of appraisers. According to senior Congressional staff serving at the time of the enactment of FIRREA, the waiver language was intended for initial transition purposes only, not for use thirty years after the implementation. Additionally, the waiver for the state of North Dakota granted this year by the ASC, the majority of its members appointed by the Agencies, was approved despite the absence of data indicating that a scarcity of appraisers existed.

This year marks the thirtieth anniversary of the enactment of FIRREA. This milestone provides a fitting backdrop for a comprehensive GAO study of the original intent of Congress in enacting Title XI versus the impact of Title XI today. The resulting recommendations could help guide needed corrections in this regard.

Sincerely,



David S. Bunton  
President

Enclosure

## APPRAISAL REGULATORY EXEMPTIONS

### **§ 323.3 Appraisals required; transactions requiring a state certified or licensed appraiser.**

- (a) *Appraisals required.* An appraisal performed by a state certified or licensed appraiser is required for all real estate-related financial transactions except those in which:
- (1) The transaction value is \$400,000 or less;
  - (2) A lien on real estate has been taken as collateral in an abundance of caution;
  - (3) The transaction is not secured by real estate;
  - (4) A lien on real estate has been taken for purposes other than the real estate's value;
  - (5) The transaction is a business loan that:
    - (i) Has a transaction value of \$1 million or less; and
    - (ii) Is not dependent on the sale of, or rental income derived from, real estate as the primary source of repayment;
  - (6) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;
  - (7) The transaction involves an existing extension of credit at the lending institution, provided that:
    - (i) There has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies; or
    - (ii) There is no advancement of new monies, other than funds necessary to cover reasonable closing costs;
  - (8) The transaction involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real property, including mortgaged-backed securities, and each loan or interest in a loan, pooled loan, or real property interest met FDIC regulatory requirements for appraisals at the time of origination;
  - (9) The transaction is wholly or partially insured or guaranteed by a United States government agency or United States government sponsored agency;
  - (10) The transaction either:
    - (i) Qualifies for sale to a United States government agency or United States government sponsored agency; or
    - (ii) Involves a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate;
  - (11) The regulated institution is acting in a fiduciary capacity and is not required to obtain an appraisal under other law; or
  - (12) The FDIC determines that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution; or
  - (13) The transaction is a commercial real estate transaction that has a transaction value of \$500,000 or less.