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## TITLE VII--APPRAISAL ACTIVITIES

### SEC. 701. PROPERTY APPRAISAL REQUIREMENTS.

Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (u) (as added by section 303(f)) the following new subsection:

`(v) Property Appraisal Requirements-

`(1) IN GENERAL- A creditor may not extend credit in the form of a mortgage referred to in section 103(aa) to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this subsection.

`(2) APPRAISAL REQUIREMENTS-

`(A) PHYSICAL PROPERTY VISIT- An appraisal of property to be secured by a mortgage referred to in section 103(aa) does not meet the requirement of this subsection unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property.

`(B) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES-

`(i) IN GENERAL- If the purpose of a mortgage referred to in section 103(aa) is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

`(ii) NO COST TO CONSUMER- The cost of any second appraisal required under clause (i) may not be charged to the consumer.

`(C) QUALIFIED APPRAISER DEFINED- For purposes of this subsection, the term 'qualified appraiser' means a person who--

`(i) is certified or licensed by the State in which the property to be appraised is located; and

`(ii) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of

1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.

`(3) FREE COPY OF APPRAISAL- A creditor shall provide 1 copy of each appraisal conducted in accordance with this subsection in connection with a mortgage referred to in section 103(aa) to the consumer without charge, and at least 3 days prior to the transaction closing date.

`(4) CONSUMER NOTIFICATION- At the time of the initial mortgage application, the consumer shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the consumer may choose to have a separate appraisal conducted at their own expense.

`(5) VIOLATIONS- In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this subsection shall be liable to the consumer for the sum of \$2,000.'

#### **SEC. 702. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.**

(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129C (as added by section 601) the following new section:

#### **`SEC. 129D. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.**

`(a) In General- It shall be unlawful, in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any unfair or deceptive act or practice as described in or pursuant to regulations prescribed under this section.

`(b) Appraisal Independence- For purposes of subsection (a), unfair and deceptive practices shall include--

`(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

`(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

`(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

`(4) failing to timely compensate an appraiser for a completed appraisal regardless of whether the transaction closes.

`(c) Exceptions- The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

`(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

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

`(3) Correct errors in the appraisal report.

`(d) Rulemaking Proceedings- The Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission--

`(1) shall, for purposes of this section, jointly prescribe regulations defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations; and

`(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), and (c).

`(e) Penalties-

`(1) FIRST VIOLATION- In addition to the enforcement provisions referred to in section 130, each person who violates this section shall forfeit and pay a civil penalty of not more than \$10,000 for each day any such violation continues.

`(2) SUBSEQUENT VIOLATIONS- In the case of any person on whom a civil penalty has been imposed under paragraph (1), paragraph (1) shall be applied by substituting '\$20,000' for '\$10,000' with respect to all subsequent violations.

`(3) ASSESSMENT- The agency referred to in subsection (a) or (c) of section 108 with respect to any person described in paragraph (1) shall assess any penalty under this subsection to which such person is subject.'

(b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129C (as added by section 601) the following new item:

`129D. Unfair and deceptive practices and acts relating to certain consumer credit transactions.'

**SEC. 703. APPRAISAL SUBCOMMITTEE OF FIEC, APPRAISER INDEPENDENCE, AND APPROVED APPRAISER EDUCATION.**

(a) Consumer Protection Mission-

(1) PURPOSE- A purpose for the establishment and operation of the Appraisal Subcommittee of the Financial Institutions Examination Council (hereafter in this section referred to as the 'Appraisal Subcommittee') shall be to establish a consumer protection mandate.

(2) FUNCTIONS OF APPRAISAL SUBCOMMITTEE- It shall be a function of the Appraisal Subcommittee to protect the consumer from improper appraisal practices and the predations of unlicensed appraisers.

(3) THRESHOLD LEVELS- In establishing a threshold level under section 1112(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(b)), each agency shall determine in writing that the threshold level provides reasonable protection for consumers who purchase 1-4 unit single-family residences.

(b) Annual Report of Appraisal Subcommittee- The annual report of the Appraisal Subcommittee under section 1103(a)(4) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval.

(c) Open Meetings- All meetings of the Appraisal Subcommittee shall be held in public session after notice in the Federal Register.

(d) Regulations- The Appraisal Subcommittee may prescribe regulations after notice and opportunity for comment. Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this section or title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, and government agencies, and hold regular meetings.

(e) Field Appraisals and Appraisal Reviews- All field appraisals performed at a property within a State shall be prepared by appraisers licensed in the State where the property is located. All Uniform Standards of Professional Appraisal Practice-compliant appraisal reviews shall be performed by an appraiser who is duly licensed by a State appraisal board.

(f) State Agency Reporting Requirement- Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall transmit reports on sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee.

(g) Registry Fees Modified-

(1) IN GENERAL- The annual registry fees for persons performing appraisals in federally related transactions shall be increased from \$25 to \$40. The maximum amount up to which the Appraisal Subcommittee may adjust any registry fees shall be increased from \$50 to \$80 per annum. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees.

(2) INCREMENTAL REVENUES- Incremental revenues collected pursuant to the increases required by this section shall be placed in a separate account at the United States Treasury, entitled the Appraisal Subcommittee Account.

(h) Grants and Reports-

(1) IN GENERAL- Amounts appropriated for or collected by the Appraisal Subcommittee after the date of the enactment of this Act shall, in addition to other uses authorized, be used--

(A) to make grants to State appraiser regulatory agencies to help defray those costs relating to enforcement activities; and

(B) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.

(2) LIMITATION ON OBLIGATIONS- Obligations authorized under this section may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the Appraisal Subcommittee Account pursuant to section 703(g) of this Act.

(i) Criteria-

(1) DEFINITION- For purposes of this section and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (notwithstanding section 1116(c) of such title), the term `State licensed appraiser' means an individual who has satisfied the requirements for State licensing in a State or territory whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers.

(2) MINIMUM QUALIFICATION REQUIREMENTS - Any requirements established for individuals in the position of `Trainee Appraiser' and `Supervisory Appraiser' shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.

(j) Monitoring of State Appraiser Certifying and Licensing Agencies- The Appraisal Subcommittee shall monitor State appraiser certifying and licencing agencies for the purpose of determining whether a State agency's funding and staffing are consistent with the requirements of title XI of the Financial Institutions Reform, Recovery, and

Enforcement Act of 1989, whether a State agency processes complaints and completes exams in a reasonable time period, and whether a State agency reports claims and disciplinary actions on a timely basis to the national registry maintained by the Appraisal Subcommittee. The Appraisal Subcommittee shall have the authority to impose interim sanctions and suspensions.

(k) Reciprocity- A State appraiser certifying or licensing agency shall issue a reciprocal certification or license for an individual from another State when--

(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and

(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.

(l) Consideration of Professional Appraisal Designations- No provision of section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be construed as prohibiting consideration of designations conferred by recognized national professional appraisal organizations, such as sponsoring organizations of The Appraisal Foundation.

(m) Appraiser Independence-

(1) PROHIBITIONS ON INTERESTED PARTIES IN A REAL ESTATE TRANSACTION- No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, non-payment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(2) EXCEPTIONS- The requirements of paragraph (1) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

(A) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

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

(C) Correct errors in the appraisal report.

(3) PROHIBITIONS ON CONFLICTS OF INTEREST- No certified or licensed appraiser conducting an appraisal may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

(4) MANDATORY REPORTING- Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction involving an appraisal who has a reasonable basis to believe an appraiser is violating applicable laws, or is otherwise engaging in unethical conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

(5) REGULATIONS- The Federal financial institutions regulatory agencies (as defined in section 1003(1) of the Federal Financial Institutions Examination Council Act of 1978) shall prescribe such regulations as may be necessary to carry out the provisions of this subsection.

(6) PENALTIES- Any person who violates any provision of this subsection shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(7) PROCEEDING- A proceeding with respect to a violation of this subsection shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

(n) Approved Education- The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board's Course Approval Program.

#### **SEC. 704. STUDY REQUIRED ON IMPROVEMENTS IN APPRAISAL PROCESS AND COMPLIANCE PROGRAMS.**

(a) Study- The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing de minimis loan levels established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee.

(b) Report- Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action, at the Federal or State level, as the Comptroller General may determine to be appropriate.

#### **SEC. 705. CONSUMER APPRAISAL DISCLOSURE.**

(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129D (as added by section 702) the following new section:

#### **SEC. 129E. CONSUMER APPRAISAL DISCLOSURE.**

'In any case in which an appraisal is performed in connection with an extension of credit secured by an interest in real property, the creditor or other mortgage originator shall make available to the applicant for the extension of credit a copy of all appraisal valuation reports upon completion but no later than 3 business days prior to the transaction closing date.'

(b) Clerical Amendment - The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129D (as added by section 702) the following new item:

'129E. Consumer appraisal disclosure.'