

□ □ □ □ □ □

Appraisal Subcommittee

Federal Financial Institutions Examination Council

VIA FAX

May 15, 2007

Rep. Oscar M. Babauta
Speaker of the House
15th Northern Mariana Legislature
P.O. Box 500586 CHRB
Saipan, MP 96950

Senator Joseph M. Mendii
Senate President
NMI Legislature
P.O. Box 500129
Saipan, MP 96950

Dear Rep. Babauta and Senator Mendii:

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (“ASC”) is a Federal government agency responsible, among other things, for overseeing State real estate appraiser regulatory programs under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”), 12 U.S.C. 3310 and 12 U.S.C. 3331, *et seq.* In exercising our oversight, we must ensure that each State and territory maintains an appraiser regulatory program that, consistent with Title XI, licenses and certified real estate appraisers who can perform appraisals in connection with real estate related financial transactions, including federally related transactions, that require the services of a State licensed or certified appraiser.

Section 1122 (a) of Title XI, 12 U.S.C. 3351(a), requires State appraisal regulatory agencies (“State agencies”), such as the Commonwealth of the Mariana Islands (“CNMI”) Board of Professional Licensing (“Board”), to “recognize on a temporary basis the certification or license of an appraiser issued by another State if – (A) the property to be appraised is part of a federally related transaction, (B) the appraiser’s business is of a temporary nature, and (C) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.” In addition, the State agency is prohibited from charging excessive fees for, or imposing burdensome requirements on, temporary practice, as determined by the ASC. ASC Policy Statement 5, which is attached for your information, sets out the ASC’s determinations regarding excessive fees and burdensome practices.

Today, we learned that a pending bill, S.B. 15-87, SDI, if adopted, would amend 4 CMC § 3214’s temporary practice provisions in several ways. First, temporary practice would cease to exist two years after the effective date of the bill, should it become law. And, second, the bill would extend temporary practice privileges to appraisers who are “legally qualified and licensed or certified in another United States or foreign jurisdiction,” and who “[meet] the minimum requirements for licensure or certification as established by the Board.”

This bill, if adopted, would violate Title XI and ASC Policy Statement 5 in several ways. First, as noted above, temporary practice must be provided to State licensed or certified appraisers. Therefore, language automatically repealing that right to temporary practice, if adopted, would be inconsistent with Title XI. Therefore, this language needs to be stricken from the bill.

Second, the language requiring temporary practice applicants to meet the minimum requirements for licensure or certification as established by the Board is burdensome. Under Title XI and ASC Policy Statement 5, a State must issue a temporary practice permit to any out-of-State licensed or certified appraiser if the property to be appraised is part of a federally related transaction, if the appraiser's business is temporary, and the appraiser registers with the State. State agencies may determine whether a temporary practice applicant's credential is valid and in good standing with his or her home State's appraiser regulatory agency either by requiring a letter of good standing from that agency or, as we recommend, by validating the appraiser's status by querying the ASC's National Registry data base of State certified and licensed appraisers (www.asc.gov). State agencies, however, cannot require an applicant to meet the State's substantive licensing or certification requirements to qualify for a temporary practice permit. An applicant need only demonstrate that he or she holds a valid license or certificate in another State.

Finally, while CNMI may choose to afford temporary practice to appraisers who are legally qualified and licensed or certified to practice in another foreign jurisdiction, those appraisers would not be able to legally perform appraisals in connection with federally related transactions and real estate related financial transactions where appraisals must be performed by a State licensed or certified appraiser under Title XI and other Federal statutes and regulations. Therefore, the proposed language in the bill needs to be changed to limit the scope of practice of foreign temporary practitioners to real estate transactions where an appraisal is not required to be performed by a State licensed or certified appraiser under Federal law.

Please contact us if you have further questions.

Sincerely,

Marc L. Weinberg
Acting Executive Director and
General Counsel

cc: Governor Beniano Fitial