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Appraisal Subcommittee

Federal Financial Institutions Examination Council

March 15, 2017

Senator Kathleen Passidomo
318 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Senator Passidomo:

This letter is in reference to SB 716 and HB 927 proposed legislation that would amend Florida statutes relating to real estate appraisers.

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) is charged with overseeing State appraiser regulatory programs for compliance with federal statutory requirements in their supervision of appraisers eligible to conduct appraisals for federally related transactions (FRT). More broadly, the ASC is also responsible for protecting public policy interests in real estate related financial transactions. While we recognize the proposed legislation applies to non-FRTs, we are concerned that the proposed legislation could be detrimental to the effective supervision of appraisers eligible to perform appraisals for FRT's, as well as real estate related financial transactions. Pursuant to federal law, appraisers performing appraisals for FRTs are required to comply with the congressionally-authorized and publicly vetted *Uniform Standards of Professional Appraisal Practice* (USPAP). The proposed legislation would allow the Florida Real Estate Appraisal Board (FREAB) to approve alternate standards for appraisers when performing appraisal assignments for non-FRTs.

If the proposed legislation were adopted and the FREAB opted to approve alternate appraisal standards, it could pose significant complications for FREAB as well as appraisers, users of appraisal services and consumers. It could put FREAB in the difficult position of having to investigate complaints against appraisers applying differing sets of appraisal standards other than the nationally-recognized USPAP, or conversely, not enforce appraiser activity pursuant to alternate standards. Therefore, ASC staff asks the following be considered.

- Enforcement of differing sets of appraisal standards
 - For many complaints, FREAB would be required to determine which sections of USPAP apply, if any. FREAB would also need to evaluate when it is permissible to apply different “standards of valuation practice” based on the definition of an FRT, which not perfectly clear. Personnel conducting complaint investigations would be required to have knowledge and expertise of varying appraisal standards, some of which may conflict with USPAP or each other. For example, how would FREAB handle conflicts between alternate standards and the Ethics and Competency Rules of USPAP?
 - When investigating a complaint where standards other than USPAP were applied, FREAB would have to learn these standards and enforce them. This could create significant delays and added costs to investigations and increase FREAB's legal exposure. This could be detrimental to the effective supervision of appraisers eligible to perform appraisals for FRTs, as required by federal law.

Lines 211-213 in the Ethics Rule in USPAP state the following:

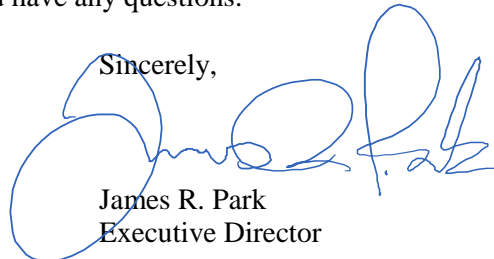
An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client of intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the services as an appraiser.

Appraisers could find themselves in a potentially difficult position if required to explain whether these provisions in USPAP were ignored.

- Users of appraisal services could also impose these alternate standards on appraisers, forcing them to learn differing standards, which could lead to confusion by the appraiser and their clients and other intended users. It's not clear where appraisers and their clients will get the necessary education to become competent to use alternate standards. Thus, the associated costs, regulatory burdens and risk could substantially increase for appraisers and their clients and other stakeholders including consumers.
- Although the amendment disallows the use of alternate standards for experience credit, appraiser applicants/trainees could be confused and submit appraisal work to FREAB for experience credit that is not USPAP compliant. This would add additional cost and expense to the administration of the State's appraisal program and cause significant frustration to individuals applying for a credential.
- Potential for no enforcement of alternate standards
 - Given the potential for significant increase in complexity and cost of enforcing these alternate standards while still enforcing limited portions of USPAP, FREAB could decide not to enforce these alternate standards, exposing the financial system and citizens of Florida to increased incidents of misleading and even fraudulent appraisals.
 - The clear majority of residential mortgage loans (GSE, FHA and VA) loans are non-FRTs. A decision to no longer investigate complaints from consumers, lenders and the secondary financial markets could be detrimental to the safety and soundness of not only Florida based institutions but also those financial institutions doing business in Florida which could also lead to increased incidents of misleading and fraudulent appraisals. Ultimately it could increase borrowing cost for many residential loans.

Please do not hesitate to contact us if you have any questions.

Sincerely,



James R. Park
Executive Director

cc: Representative Bob Rommel
Director Juana Watkins, Division of Real Estate