

## APPRAISER INDEPENDENCE LAWS

The goal of this document is to examine how states are attempting to combat appraiser pressure. Appraiser pressure is defined as a mortgage lender, broker, or a real estate agent or broker pressuring an appraiser to reach a certain value in conjunction with an appraisal of real property. This is usually in connection with a mortgage loan. Many appraisers consider appraiser pressure to be the biggest problem facing appraisers in today's real estate market.

### ALASKA

**Prohibited activities.** In addition to activities prohibited elsewhere in this chapter or by law, a person who is a licensee, a person who is required to be licensed under this chapter, a person who is a small mortgage lender, and a person who is licensed under AS 06.20 may not misrepresent or conceal material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a borrower to enter into a mortgage loan transaction, or, in the course of a mortgage loan transaction, ...

(7) influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan; this paragraph does not prohibit a person from asking an appraiser to

- (A) consider additional appropriate property information;
- (B) provide further detail, substantiation, or explanation for the appraiser's value determination; or
- (C) correct errors in the appraisal report;

[Alaska Statutes 06.60.340](#)

### ARIZONA

A person who induces or influences the actions of an appraiser for purposes of securing an appraisal that is grossly misleading, or fraudulent, is guilty of a class 6 felony.

[Arizona Revised Statutes – 32-3633](#)

### ARKANSAS

In addition to the other activities that are prohibited under this subchapter, it is unlawful for any person... in the course of any mortgage loan transaction or activity:

(9)(A) To influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(B) This subdivision (9) does not prohibit a mortgage broker or mortgage banker from asking the appraiser to do one (1) or more of the following:

- (i) Consider additional appropriate property information;
- (ii) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
- (iii) Correct errors in the appraisal report;

Arkansas Fair Mortgage Lending Act Section 23-39-513

(a)(2) A person is guilty of a Class A misdemeanor if the person:

(A) Acts as an appraiser within the meaning of this chapter without an appraiser classification;

(B)(i) With an interest in a real estate transaction involving an appraisal, improperly influences or attempts to improperly influence the development, reporting, result, or review of a real estate appraisal through intimidation, coercion, extortion, bribery, blackmail, threat of nonpayment or withholding payment for services, or threat of exclusion from future appraisal work.

(ii) Subdivision (a)(2)(B)(i) of this section does not prohibit a person from:

(a) Requesting an appraiser to:

- (1) Consider additional information concerning the real estate appraisal;
- (2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
- (3) Correct errors in the appraisal report; or

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(b) Withholding payment for an appraisal based upon a bona fide dispute concerning the appraiser's compliance with the appraisal standards adopted by the Arkansas Appraiser Licensing and Certification Board under this chapter.

(iii) A violation of this subdivision (a)(2)(B) is a ground for discipline against a person holding a license, certificate, or registration under this chapter; or

(C) Violates any other provision of this chapter.

Arkansas Code § 17-14-308, as amended by [Act 413](#) (2009 - [HB 1500](#))

### **CALIFORNIA**

1090.5. (a) No person with an interest in a real estate transaction involving an appraisal shall improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(b) Subdivision (a) does not prohibit a person with an interest in a real estate transaction from asking an appraiser to do any of the following:

- (1) Consider additional, appropriate property information.
- (2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
- (3) Correct errors in the appraisal report.

(c) If a person who violates this section is licensed under any state licensing law and the violation occurs within the course and scope of the person's duties as a licensee, the violation shall be deemed a violation of that state licensing law.

(d) Nothing in this section shall be construed to authorize communications that are otherwise prohibited under existing law.

[Civil Code Section 1090.5](#)

### **COLORADO**

**12-61-910.2. Prohibited conduct - influencing a real estate appraisal.** (1) A mortgage loan originator shall not, directly or indirectly, compensate, coerce, or intimidate an appraiser, or attempt, directly or indirectly, to compensate, coerce, or intimidate an appraiser, for the purpose of influencing the independent judgment of the appraiser with respect to the value of a dwelling offered as security for repayment of a residential mortgage loan. This prohibition shall not be construed as prohibiting a mortgage loan originator from requesting an appraiser to:

- (a) Consider additional, appropriate property information;
- (b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
- (c) Correct errors in the appraisal report.

[Colorado Revised Statutes Section 12-61-910.2](#)

### **CONNECTICUT**

**Sec. 36a-760j. Prohibition against influencing real estate appraisals.** A mortgage broker shall not influence real estate appraisals of residential property. For the purposes of this section, "influence residential real estate appraisals" includes, but is not limited to: (1) Refusal, or intentional failure, to pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price; or (2) refusal, or intentional failure, to utilize, or encouraging other mortgage brokers not to utilize, an appraiser based solely on the fact that the appraiser provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

[Section 36a-760j](#)

Sec. 82. (NEW) (*Effective July 1, 2008*) (a) A real estate broker or real estate salesperson licensed under chapter 392 of the general statutes shall not influence residential real estate appraisals. For the purposes of this section, "influence residential real estate appraisals" includes, but is not limited to, refusal or intentional failure to refer a homebuyer, or encouraging other real estate brokers or real estate salespersons not to refer a homebuyer, to a mortgage broker, as defined in section 21 of this act, or a lender, as defined in section 21 of this act, based solely on the fact that the mortgage broker or lender uses an appraiser who has provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

(b) Violations of subsection (a) of this section shall be subject to the actions and penalties set forth in section 20-320 of the general statutes.

[Section 82 of HB 5577 \(2008\)](#)

### **DISTRICT OF COLUMBIA**

(d) A mortgage loan originator or loan officer required to be licensed under this act shall not:

(11) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

D.C. Official Code § 26-1114

### **FLORIDA**

494.00255 Administrative penalties and fines; license violations.—

(1) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (2) may be taken against a person licensed or required to be licensed under part II or part III of this chapter:

(f) Requesting a specific valuation, orally or in writing, from an appraiser for a particular property, implying to an appraiser that a specific valuation is needed for a particular property, or in any manner conditioning the order for an appraisal on the appraisal meeting a specific valuation. The numeric value of the specific valuation sought need not be stated, but rather the mere statement that a specific valuation is sought, violates this section.

[Section 494.00255, Florida Statutes as added by Senate Bill 2226 \(2009\)](#)

### **IDAHO**

PROHIBITED PRACTICES OF MORTGAGE BROKERS AND MORTGAGE LENDERS. No mortgage broker or mortgage lender licensee under this part or person required under this part to have such license shall:

(6) Make payment, whether directly or indirectly, of any kind to any inhouse or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any residential real property which is to be covered by a residential mortgage loan;

New Chapter 31, Title 26, Section 211 of Idaho Code as Enacted by [HB 169](#) (2009)

### **INDIANA**

A person licensed or registered under this chapter (specifically loan brokers), or a person required to be licensed or registered under this chapter, shall not knowingly bribe, coerce, or intimidate another person to corrupt or improperly influence the independent judgment of a real estate appraiser with respect to the value of any real estate offered as security for a mortgage loan.

[Indiana Code – 23-2-5-9.1](#)

### **IOWA**

No mortgage lender, mortgage broker or originator, real estate broker or salesperson, client, party, appraiser, nor another person with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment, shall improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal through coercion, extortion or bribery, or through any other means that impairs or may impair the independent judgment of the appraiser, including but not limited to the withholding or threatened withholding of payment for an appraisal fee, or the conditioning of the payment of any appraisal fee upon the opinion, conclusion or valuation to be reached, or a request that the appraiser report a predetermined opinion, conclusion or valuation, or the desired valuation of any person.

**Note:** Improper appraiser pressure has long violated the Iowa Consumer Fraud Act and is now expressly identified in the law as an unlawful practice under that Act. The Iowa Consumer Fraud Act is enforced by the Iowa Attorney General. Remedies include injunctive relief, civil penalties up to \$40,000 per violation, additional civil penalties up to \$5,000 per violation for unlawful practices directed toward older citizens, consumer restitution, investigative costs, and attorney fees.

[Iowa Code Section 543D.18A](#)

It is a violation of this chapter for a person or individual subject to this chapter to engage in any of the following activities:

11. Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

[Iowa Code 535D.17 as added by Senate File 355 \(2009\)](#)

## **KANSAS**

(1) No person required to be licensed or registered under this act shall directly or indirectly:...

(l) make any payment, threat or promise to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat or promise to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property or engage in any activity that would constitute a violation of K.S.A. 58-2344, and amendments thereto;

### [Senate Bill 240 as enacted in 2009](#)

No lender or any person acting on behalf of a lender shall disclose to an appraiser or other person engaged to determine the appraised value of real estate, the amount of a proposed real estate loan or the preferred or required value of any real estate intended to secure such loan.

### [Kansas Statute 58-2344](#)

## **KENTUCKY**

It is unlawful for any person in the course of a mortgage transaction to improperly influence the development, report, result, or review of a real estate appraisal sought in connection with a mortgage loan.

### [Kentucky Revised Statutes Chapter 286.2-030](#)

## **MICHIGAN**

(2) A person, association, nonprofit corporation, common law trust, joint stock company, limited liability company, or any other group of individuals, however organized, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or representative thereof who or which willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00, imprisonment for not more than 1 year, or both:...

(c) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a secondary mortgage loan, including, but not limited to, by doing any of the following:

(i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

### [Michigan Code of Laws 493.77, Section 27](#)

Sec. 29. (1) An owner, partner, member, officer, director, trustee, employee, agent, broker, or other person, or a representative acting on the authority of that person that willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both:...

(d) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan, including, but not limited to, by doing any of the following:

(i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

### [Michigan Code of Laws 445.1679, Section 29](#)

Sec. 2635. (1) Except as otherwise provided in subsection (2), a licensee who does 1 or more of the following shall be subject to the penalties set forth in article 6:

(i) Develops and communicates, in violation of the standards adopted under this article, an appraisal used as an investment or as collateral for a loan in a real-estate-related financial transaction by developing and communicating that appraisal as a result of the client's or intended user's doing either or both of the following:

(i) Setting preconditions on the outcome of the appraisal as a prerequisite for being selected to develop and communicate an appraisal or for obtaining future appraisal work. As used in this subparagraph, "setting preconditions on the outcome of an appraisal" does not include the communication of information, including documents related to the property being appraised, necessary to identify the valuation problem to be solved and the scope of work necessary to determine credible assignment results.

(ii) Representing or implying that payment for the development and communication of the appraisal is predicated upon attaining a desired minimum appraised value.

(2) A person licensed under this article who violates subsection (1)(i) is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both.

[Michigan Code of Laws 339.2635 as amended by HB 4054 \(2008\)](#)

### **MINNESOTA**

#### Subdivision 1. **Generally.**

(a) No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, except as otherwise provided in paragraph (b), shall:...

(11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

[Minnesota Statutes 58.13](#)

### **MISSISSIPPI**

(1) No person required to be licensed \* \* \* under this chapter shall:

(s) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

[Mississippi Code 81-18-27 as amended by SB 2983 \(2009\)](#)

### **MISSOURI**

It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal. Such acts are considered mortgage fraud, which is a felony punishable by up to seven years in prison and a civil fine of up to \$2,500 per violation.

[Chapter 443, Section 443.930.](#)

### **NEW JERSEY**

The following practices shall be prohibited and a violation of this act with respect to any mortgage loan:

i. No residential mortgage lender, residential mortgage broker, or mortgage loan originator shall make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a mortgage loan, including to any appraiser of the real property that is, or intended to be, the security for the loan for the purposes of influencing the appraiser's judgment with respect to the value of the property.

[P.L.2009, c.53 as added by AB 3816 \(2009\)](#)

### **NEW MEXICO**

It is a violation of the New Mexico Mortgage Loan Originator Licensing Act for a mortgage loan originator to:...

(11) make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property. Nothing in this paragraph shall be construed to prohibit a mortgage loan originator from asking the appraiser to consider additional appropriate property information or provide further detail, substantiation or explanation for the appraiser's value conclusion;

[New Section of New Mexico Statutes as added by SB 342 \(enacted in 2009\)](#)

### **NEW YORK**

It is a civil violation in New York to improperly influence the development, reporting, result or review of a real estate appraisal relating to real property securing a home loan. Any lender or mortgage broker found by a preponderance of evidence to have committed a violation of this provision is liable to the borrower for actual damages.

[Banking Law § 590-b](#)

### **NORTH CAROLINA**

Influencing or attempting to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. Failing to promptly pay when due according to the normal and customary business practices between the lender and appraiser reasonable fees to a real estate appraiser for appraisal services.

[North Carolina General Statute - § 53-243.11](#)

**NORTH DAKOTA**

**13-10-17. Prohibited acts and practices.** It is a violation of this chapter for a person or individual subject to this chapter to:...

11. Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

[Chapter 13-10-17 of the North Dakota Century Code as enacted by SB 2160 \(2009\)](#)

**OHIO**

No person or business entity, directly or indirectly, shall knowingly compensate, coerce or intimidate or attempt to compensate, coerce or intimidate a licensed or certified appraiser for the purpose of corrupting or improperly influencing the independent judgment of a licensed appraiser with respect to the value of property.

Violation of this act grants the Division of Banking or the Mortgage Broker Division the power to invoke fines, suspend or revoke the licenser or other penalties suitable to the Division.

[Ohio Chapter 1322.07\(g\)](#)

**OKLAHOMA**

It is a violation of this act for an entity or individual subject to this act to:

11. Make any payment, threat or promise, directly or indirectly, to any entity or individual for the purposes of influencing the independent judgment of the entity or individual in connection with a residential mortgage loan or make any payment, threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

[Oklahoma Statutes Title 59, Section 2095.18 \(as added by SB 1062 in 2009\)](#)

**SOUTH DAKOTA**

No real estate appraiser with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment may improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal by:

- (1) Coercion, extortion, or bribery;
- (2) Withholding or threatened withholding of payment for an appraisal fee;
- (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached;
- (4) Requesting that the appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person; or
- (5) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality.

A violation of this section may constitute grounds for discipline against a real estate appraiser who is registered, licensed, or certified pursuant to the laws of the State of South Dakota.

No person violates section 1 of this Act solely by asking a real estate appraiser to consider additional, appropriate property information, or to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or by withholding payment of an appraisal fee based on a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the Department of Revenue and Regulation pursuant to this chapter. A person does not violate section 1 of this Act solely by retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an appraiser with information the appraiser is required to analyze under the appraisal standards adopted by the department, such as agreements of sale, options, or listings of the property to be valued.

No mortgage lender, mortgage broker, or mortgage loan originator, required to be licensed or registered by this chapter, with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment may improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal by:

- (1) Coercion, extortion, or bribery;
- (2) Withholding or threatened withholding of payment for an appraisal fee;
- (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached;
- (4) Requesting that the appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person; or
- (5) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality.

A violation of this section may constitute grounds for discipline against a mortgage lender, mortgage broker, or mortgage loan originator who is licensed or registered pursuant to this chapter.

No person violates section 3 of this Act solely by asking a real estate appraiser to consider additional, appropriate property information, or to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or by withholding payment of an appraisal fee based on a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the Department of Revenue and Regulation pursuant to this chapter. A person does not violate section 3 of this Act solely by retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an appraiser with information the appraiser is required to analyze under the appraisal standards adopted by the department, such as agreements of sale, options, or listings of the property to be valued.

[South Dakota House Bill 1124](#), effective July 1, 2009

#### **UTAH**

An individual or entity transacting the business of residential mortgage loans in this state may not give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice.

[Utah Code Section 61-2c-301](#)

#### **WASHINGTON**

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020 (1)(e), (g), or (4) to...

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

[Revised Code of Washington 19.146.0201](#)

#### **WEST VIRGINIA**

##### **§31-17A-16. Prohibited acts and practices.**

It is a violation of this article for a person or individual subject to this article to:

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

[Section 31-17A-16 as added by SB 532 \(2009\)](#)

(m) In making any primary or subordinate mortgage loan, no licensee may, and no primary or subordinate mortgage lending transaction may, contain terms which...:

(2) Compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a deed of trust or is being offered as security according to an application for a primary or subordinate mortgage loan;

[Section 31-17-8\(m\)\(2\)](#)

##### **§106-5-10. Improper influence of appraisers.**

10.1 Any threat, oral or written, direct or implied, by a lender or broker to withhold payment of an appraiser's fee constitutes an attempt to coerce or intimidate an appraiser for the purpose of influencing his or her independent judgment in violation of W.Va. Code § 31-17-8(m)(2).

10.2 Any threat, oral or written, direct or implied, by a lender or broker to cease using the services of an appraiser in the future if that appraiser does not provide an appraisal amount in accordance with the expectations of that lender or broker constitutes an attempt to coerce or intimidate an appraiser for the purpose of influencing his or her independent judgment in violation of W.Va. Code § 31-17-8(m)(2).

[West Virginia Legislative Rules - Section 106-5-10](#)

