

## 2008 State Legislative Wrap-Up

During the 2008 sessions of state legislatures, a number of new laws were enacted that impact the appraisal industry. There were numerous proposals to modify state licensing and certification criteria to bring them in line with the Financial Institutions Reform, Recovery, and Enforcement Act and the standards of the Appraiser Qualifications Board of the Appraisal Foundation. In addition, two prominent issues discussed by state legislatures in 2008 were appraiser independence from the real estate and lending industries, and the ability of real estate professionals to perform broker price opinion services. When the legislatures reconvene in early 2009, it is probable that these issues will be considered in other states, and action will be required on the part of the appraisal industry.

**Connecticut** - A new law (House Bill 5577) prohibits mortgage brokers, real estate brokers, and real estate salespersons from attempting to influence residential appraisals, and from refusing to pay an appraiser or intentionally avoiding a specific appraiser in the future, because of an appraiser's previous work that reflected a fair market value estimate that was less than the sale contract price.

**Kentucky** – As a result of the enactment of House Bill (HB) 552, it is now unlawful in Kentucky 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.”

**Missouri** - The passage of H.B. 2188 has made it illegal in Missouri to “influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal”.

**New York** - As part of a comprehensive law (SB 8143) addressing the mortgage foreclosure crisis, it is now a crime 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”. This language is similar to language that is contained in the Home Valuation Code of Conduct that was spurred by the investigations of New York Attorney General Andrew Cuomo.

In addition to appraiser independence, the desire of real estate professionals to be able to offer broker price opinions (BPO) and comparative market analyses has also resulted in new laws in several states.

**Kansas** - Licensed real estate brokers in Kansas now have the authority (HB 2772) to perform a comparative market analysis or broker's price opinion for a customer, client or third party for compensation as long as the task is performed “in the ordinary course of business.” This new law also exempts employees of financial institutions from the Kansas appraiser licensing law so long as a loan that is the subject of an appraisal is not intended to be sold in the secondary mortgage market.

**Washington** - "Issuing a broker's price opinion" is now within the scope of services for real estate brokers (HB 2778). During consideration of the bill, the Appraisers Coalition of Washington (ACOW) successfully lobbied for language that clarifies that a BPO is not an appraisal unless it is performed by someone licensed under the appraisal law and performed in accordance with USPAP. ACOW also urged the legislature to include language in this bill regarding pressure put on appraisers by real estate professionals.

**Illinois** also considered, but did not enact BPO legislation in 2008. It is likely that this bill will be reconsidered during the 2009 legislative session.

Other issues to be considered during the 2008 sessions of the state legislatures include:

**Alabama** – A new law requires that applicants for an appraiser's license be "legally present" in the state. Previous law had required that an applicant be a U.S. citizen or an alien with permanent resident status.

**Colorado** - A new law signed by Colorado Governor Bill Owens on June 5, 2008 will make changes to the state's regulations regarding conservation easement appraisals. According to the sponsor of the bill, "Some promoters have abused the tax credit program to obtain a financial benefit for themselves and their clients by submitting easements that misrepresent a property's conservation or financial values." The new law will require that any appraiser who conducts an appraisal for a conservation easement must submit a copy of the appraisal to the Division of Real Estate within 30 days along with an extensive affidavit. The law also also requires that the Division establish classroom education and experiences requirements for appraisers who perform these types of appraisals. Lastly, the law requires that an appraiser pay a fee of up to \$600 for each conservation easement appraisal submitted to the Division.