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**American
Society of
Appraisers**

The International Society of Professional Valuers

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April 8, 2003

Honorable Spencer Bachus, Chairman
Honorable Bernard Sanders, Ranking Minority Member
Financial Institutions & Consumer Credit Subcommittee
2129 Rayburn House Office Building.
Washington, DC 20515

Dear Sirs:

The American Society of Appraisers (ASA) and The Appraisal Institute (AI) are writing in opposition to Section 614 of H.R. 1375, the Financial Services Regulatory Relief Act of 2003.¹ That section would repeal a provision of Title IX of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), which established a “knowingly and recklessly” standard for banking agency administrative actions against “institution affiliated” parties, like appraisers, believed to have violated safety and soundness requirements.

ASA and AI believe that enactment of Section 614 would establish an unjustifiable equivalency, for banking agency law enforcement purposes, between bank insiders on the one hand (such as senior executives and members of the board of directors) and outside contractors on the other (like appraisers), who have no knowledge about and no control over, internal bank underwriting and operational decision-making. Ironically, section 614 repeals a provision of FIRREA which greatly enhanced the enforcement powers of the financial regulatory agencies, but did so in a way which properly recognized the distinction between powerful insiders who control their institutions; and those hired as independent contractors to perform specialized services for them. ASA and the AI do not believe there is any factual or analytical predicate for undoing the carefully calibrated “burden-of-proof” standards contained in FIRREA. Certainly, Congress should not approve such a dramatic change in the basis on which banking agency enforcement actions are taken against appraisers and other institution-affiliated outsiders, without hearings and a detailed and convincing record evidencing a clear need to do so.

¹The American Society of Appraisers and the Appraisal Institute represent approximately 25,000 members across the United States. ASA is an international professional appraisal society with more than 6,500 members worldwide. Established in 1936, it is the nation’s largest multidiscipline appraisal society that teaches, tests, credentials and provides continuing education to its members in business valuation and in the appraisal of real estate and tangible and intangible personal property. The Appraisal Institute is the nation’s leading real estate appraisal professional society. ASA and AI are founding members of the non-profit Appraisal Foundation, which promulgates the Uniform Standards of Professional Appraisal Practice (USPAP) and establishes minimum qualifications for certified and licensed appraisers.

The Honorable Spencer Bachus
The Honorable Bernie Sanders
April 8, 2003

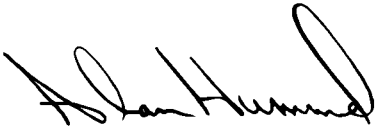
Experience indicates that the banking agencies have never lacked authority to take enforcement action against appraisers and other third parties who have engaged in unsafe or unsound practices. This was abundantly clear in the wake of the S&L and banking crisis of the mid-to-late 1980s, when many appraisers were the subject of successful administrative enforcement actions by the FDIC. If the banking agencies' enforcement authority vis-à-vis appraisers were adequate then, we do not understand why there would be a need now, to change the standard.

As you may be aware, Appraiser Licensing Boards in the fifty states are responsible for taking enforcement actions (including fines and the suspension or revocation of licenses) against real estate appraisers who violate the Uniform Standards of Professional Appraisal Practice (USPAP) and to a great extent real estate appraisers are currently subject to direct supervision. Incidentally, efforts are underway now to review and strengthen that system as the GAO is preparing a report at the request of members of the U.S. Senate.

Additionally, we are concerned with the apparent disconnect between the intended purpose of Section 614 and its application to appraisers illustrated by the argument the FDIC used before your Subcommittee to support it. The FDIC witness testified that "in recent years, banking regulators have seen an increase in internal control deficiencies at many insured depository institutions" some of which "have caused significant operating losses and led to failures." We see no conceivable role that appraisers could play in a financial institution's failure to have adequate "internal controls."

Accordingly, for the reasons stated above, our societies respectfully urge the Subcommittee to eliminate Section 614. If there are any questions, please call ASA's government affairs representative (Peter Barash, 202-466-2221) or Don Kelly, Vice President of Public Affairs, Appraisal Institute at 202-298-5583 or dkelly@appraisalinstitute.org, or Ted Baker, Executive Vice President, American Society of Appraisers at 703-733-2019 or tbaker@appraisers.org.

Sincerely,



Alan E. Hummel, SRA
President
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John Connolly, ASA
President
American Society of Appraisers

cc: The Honorable Mike Oxley
Chairman
House Committee on Financial Services

The Honorable Barney Frank
Ranking Minority Member
House Committee on Financial Services

The Honorable Shelley Moore Capito