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[Laws in effect as of January 2, 2001]
[Document not affected by Public Laws enacted between
January 2, 2001 and January 28, 2002]
[CITE: 12USC3347]

TITLE 12--BANKS AND BANKING

CHAPTER 34A--APPRAISAL SUBCOMMITTEE OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Sec. 3347. Monitoring of State appraiser certifying and licensing agencies

(a) In general

The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this chapter. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this chapter shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this chapter.

(b) Disapproval by Appraisal Subcommittee

The Federal financial institutions, regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that--

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this chapter;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this chapter; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this chapter.

(c) Rejection of State certifications and licenses

(1) Opportunity to be heard or correct conditions

Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) Adoption of procedures

The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) Judicial review

A decision of the subcommittee under this section shall be subject to judicial review.

(Pub. L. 101-73, title XI, Sec. 1118, Aug. 9, 1989, 103 Stat. 515.)

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[CITE: 12USC3348]

TITLE 12--BANKS AND BANKING

CHAPTER 34A--APPRAISAL SUBCOMMITTEE OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Sec. 3348. Recognition of State certified and licensed appraisers for purposes of this chapter

(a) Effective date for use of certified or licensed appraisers only

(1) In general

Not later than December 31, 1992, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this chapter.

(2) Extension of effective date

Subject to the approval of the council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this chapter.

(b) Temporary waiver of appraiser certification or licensing requirements for State having scarcity of qualified appraisers

Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this chapter if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this chapter, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State, or in any geographical political subdivision of a State, leading to significant delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such significant delays have been eliminated.

(c) Reports to State certifying and licensing agencies

The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this chapter, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this chapter.

(Pub. L. 101-73, title XI, Sec. 1119, Aug. 9, 1989, 103 Stat. 516; Pub. L. 102-233, title VII, Sec. 701(b), Dec. 12, 1991, 105 Stat. 1792; Pub. L. 102-242, title IV, Sec. 472(b), Dec. 19, 1991, 105 Stat. 2386; Pub. L. 102-550, title XVI, Sec. 1617(a), Oct. 28, 1992, 106 Stat. 4096.)

Amendments

1992--Subsecs. (a)(1), (b). Pub. L. 102-550, Sec. 1617(a), repealed Pub. L. 102-233, Sec. 701(b). See 1991 Amendment note below.

1991--Subsec. (a)(1). Pub. L. 102-242, Sec. 472(b)(1), substituted ``December 31, 1992" for ``July 1, 1991". Pub. L. 102-233, Sec. 701(b)(1), which made an identical amendment, was repealed by Pub. L. 102-550, Sec. 1617(a). See Construction of 1991 Amendment note below. Subsec. (b). Pub. L. 102-242, Sec. 472(b)(2), substituted `` , or in any geographical political subdivision of a State, leading to significant delays" for ``leading to inordinate delays" in first sentence and ``significant" for ``inordinate" in second sentence. Pub. L. 102-233, Sec. 701(b)(2), which made an identical amendment, was repealed by Pub. L. 102-550, Sec. 1617(a). See Construction of 1991 Amendment note below.

Construction of 1991 Amendment

No amendment to this section by section 701 of Pub. L. 102-233 to be deemed to have taken effect before Oct. 28, 1992, and provisions of law amended by such section 701 to continue in effect as if no such amendment had been made, see section 1617(b) of Pub. L. 102-550, set out as a note under section 3345 of this title.

Section Referred to in Other Sections

This section is referred to in section 3349 of this title.

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[CITE: 12USC3349]

TITLE 12--BANKS AND BANKING

CHAPTER 34A--APPRAISAL SUBCOMMITTEE OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Sec. 3349. Violations in obtaining and performing appraisals in federally related transactions

(a) Violations

Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 3348(b) of this title, it shall be a violation of this section--

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 3350(5) of this title to which such association or corporation is a party.

(b) Penalties

A financial institution that violates subsection (a)(1) of this section shall be subject to civil penalties under section 1818(i)(2) of this title or section 1786(k)(2) of this title, as appropriate.

(c) Proceeding

A proceeding with respect to a violation of this section shall be an administrative proceeding, which may be conducted by a Federal financial institution regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5.

(Pub. L. 101-73, title XI, Sec. 1120, Aug. 9, 1989, 103 Stat. 517.)

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[CITE: 12USC3350]

TITLE 12--BANKS AND BANKING

CHAPTER 34A--APPRAISAL SUBCOMMITTEE OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Sec. 3350. Definitions

For purposes of this chapter:

(1) State appraiser certifying and licensing agency

The term "State appraiser certifying and licensing agency" means a State agency established in compliance with this chapter.

(2) Appraisal Subcommittee; subcommittee

The terms "Appraisal Subcommittee" and "subcommittee" mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) Council

The term "Council" means the Federal Financial Institutions Examinations Council.

(4) Federally related transaction

The term "federally related transaction" means any real estate-related financial transaction which--

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) Real estate related financial transaction

The term "real estate-related financial transaction" means any transaction involving--

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) Federal financial institutions regulatory agencies

The term "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporations, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) Financial institution

The term "financial institution" means an insured depository institution as defined in section 1813 of this title or an insured credit union as defined in section 1752 of this title.

(8) Chairperson

The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the council.\1\ (\1\ So in original. Probably should be capitalized.

(9) Foundation

The terms "Appraisal Foundation" and "Foundation" means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) Written appraisal

The term "written appraisal" means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(Pub. L. 101-73, title XI, Sec. 1121, Aug. 9, 1989, 103 Stat. 517.)

Section Referred to in Other Sections

This section is referred to in section 3349 of this title.

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[CITE: 12USC3351]

TITLE 12--BANKS AND BANKING

CHAPTER 34A--APPRAISAL SUBCOMMITTEE OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Sec. 3351. Miscellaneous provisions

(a) Temporary practice

(1) In general

A State appraiser certifying or licensing agency shall 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.

(2) Fees for temporary practice

A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

(b) Reciprocity

The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

(c) Supplemental funding

Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's \1\ functions under this chapter. (\1\ So in original. Probably should be capitalized.)

(d) Prohibition against discrimination

Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(e) Other requirements

A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this chapter. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if--

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(f) Studies

(1) Study

The Appraisal Subcommittee shall--

(A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this chapter to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) Report

The Appraisal Subcommittee shall--

(A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after August 9, 1989, and

(B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after August 9, 1989.

(Pub. L. 101-73, title XI, Sec. 1122, Aug. 9, 1989, 103 Stat. 518; Pub. L. 103-325, title III, Sec. 315, Sept. 23, 1994, 108 Stat. 2222.)

Amendments

1994--Subsec. (a). Pub. L. 103-325, Sec. 315(3), redesignated existing provisions as par. (1), inserted heading, redesignated former pars. (1) to (3) as subpars. (A) to (C) of par. (1), and added par. (2).

Subsecs. (b) to (f). Pub. L. 103-325, Sec. 315(1), (2), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

Section Referred to in Other Sections

This section is referred to in section 3337 of this title.