

From: Michael E Kennedy
Subject: Regulation Z -- Truth in Lending

Comments:

Date: Apr 12, 2011

Proposal: Regulation Z - Truth In Lending Act

Document ID: R-1394

Document Version: 1

Release Date: 10/18/2010

Name: Michael E Kennedy

Affiliation:

Category of Affiliation: Other

Address:

City:

State:

Country: UNITED STATES

Zip:

PostalCode:

Comments:

Re: TITLE XIV-MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT Sec. 1400. Short title; designation as enumerated consumer law. H. R. 4173-11 Subtitle F-
Appraisal Activities "SEC. 1472. APPRAISAL INDEPENDENCE REQUIREMENTS. (a) IN
GENERAL.-Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is
amended by inserting after section 129D (as added by section 1461(a)) the
following new section: '§ 129E. Appraisal independence requirements '(a) IN
GENERAL.-It shall be unlawful, in extending credit or in providing any services
for a consumer credit transaction secured by the principal dwelling of the
consumer, to engage in any act or practice that violates appraisal independence
as described in or pursuant to regulations prescribed under this section. '(b)
APPRAISAL INDEPENDENCE.-For purposes of subsection (a), acts or practices that
violate appraisal independence shall include- '(g) RULES AND INTERPRETIVE
GUIDELINES.- '(1) IN GENERAL.-Except as provided under paragraph (2), the
Board, the Comptroller of the Currency, the Federal Deposit Insurance
Corporation, the National Credit Union Administration Board, the Federal
Housing Finance Agency, and the Bureau may jointly issue rules, interpretive
guidelines, and general statements of policy with respect to acts or practices
that violate appraisal independence in the provision of mortgage lending
services for a consumer credit transaction secured by the principal dwelling of
the consumer and mortgage brokerage services for such a transaction, within the
meaning of subsections (a), (b), (c), (d), (e), (f), (h), and (i). '(2)
INTERIM FINAL REGULATIONS.-The Board shall, for purposes of this section,
prescribe interim final regulations no later than 90 days after the date of
enactment of this section defining with specificity acts or practices that
violate H. R. 4173-814 appraisal independence in the provision of mortgage
lending services for a consumer credit transaction secured by the principal
dwelling of the
consumer or mortgage brokerage services for such a transaction and defining any
terms in this section or such regulations. Rules prescribed by the Board under

this paragraph shall be deemed to be rules prescribed by the agencies jointly under paragraph (1). '(i) CUSTOMARY AND REASONABLE FEE.- '(1) IN GENERAL.- Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by known appraisal management companies." Given the last sentence above, there is no debate nor long-winded commentary necessary re the FRB's flagrantly erroneous, and legally unauthorized, revision of Federal Law. Revision of said Law enacted July 2010 must be done by Congress via Amendment to Title XIV. The statement, and the intent, is clear. Customary and Reasonable appraisal fees must be market-based and surveys utilized by Lenders and/or their AMC subsidiaries to establish C• "SHALL NOT include AMC fees." Period. The fictitious "Option 1" methodology authored in the Interim Final Rule directly contradicts the letter of the Federal Law. The FRB's Interim Rule, therefore, MUST be revised immediately to accurately state the ACTUAL Language in Title XIV. I suggest that Members of the FRB, or their Staff Attorneys, should be hard-pressed to "interpret" the simple, explicit language in Dodd-Frank in any other way while remaining in Compliance with Congressional Directives to promulgate accurate Regulations which must explain and guide Lenders, AMCs, Appraisers and Consumers regarding Customary and Reasonable appraisal fees i.e. fees which must be paid to the Appraiser (as defined in Dodd-Frank) for actually performing, and reporting, an appraisal. Consumers must not be over-charged by additional "administrative surcharges" added on to what they already know are "Customary and Reasonable" appraisal fees in their neighborhoods. In the interest of preserving and "protecting the Public Trust" (per the USPAP Preamble, I thank the Members of the Board for the opportunity to request this urgent, and clearly necessary, revision of the Interim Final Rule restoring compliance with Federal Law.