

HOUSE No. 395

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the misrepresentation of the value of a consumer's dwelling..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section (1) No creditor in connection with a residential mortgage transaction, as these
2 terms are defined in section 1 of chapter 140D of the Massachusetts General Laws, or mortgage
3 broker, and no affiliate of a creditor or mortgage broker, no employee of an appraisal
4 management company, and no person licensed as a real estate broker or salesperson, shall
5 directly or indirectly coerce, influence, or otherwise encourage an appraiser to misstate or
6 misrepresent the value of such dwelling.

7 (i) Examples of actions that violate this act include:

8 (A) Implying to an appraiser that current or future retention of the appraiser depends on
9 the amount at which the appraiser values a consumer's principal dwelling;

10 (B) Excluding an appraiser from consideration for future engagement because the
11 appraiser reports a value of a consumer's principal dwelling that does not meet or exceed a
12 minimum threshold;

13 (C) Telling an appraiser a minimum reported value of a consumer's principal dwelling
14 that is needed to approve the loan;

15 (D) Failing to compensate an appraiser because the appraiser does not value a consumer's
16 principal dwelling at or above a certain amount; and

17 (E) Conditioning an appraiser's compensation on loan consummation.

18 (ii) Examples of actions that do not violate this act include:

19 (A) Asking an appraiser to consider additional information about a consumer's principal
20 dwelling or about comparable properties;

21 (B) Requesting that an appraiser provide additional information about the basis for a
22 valuation;

23 (C) Requesting that an appraiser correct factual errors in a valuation;

24 (D) Obtaining multiple appraisals of a consumer's principal dwelling, so long as the
25 creditor adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that
26 states the highest value;

27 (E) Withholding compensation from an appraiser for breach of contract or substandard
28 performance of services as provided by contract; and

29 (F) Taking action permitted or required by applicable federal or state statute, regulation,
30 or agency guidance.

31 No appraiser shall knowingly submit an appraisal report that misrepresents the value of a
32 consumer's dwelling.

33 A violation of this section shall constitute an unfair and deceptive act or practice under
34 Massachusetts General Laws, chapter 93A.

35 Section (2) When an extension of credit is prohibited. In connection with a consumer
36 credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before
37 loan consummation, of a violation of this act in connection with an appraisal shall not extend
38 credit based on such appraisal unless the creditor documents that it has acted with reasonable
39 diligence to determine that the appraisal does not materially misstate or misrepresent the value of
40 such dwelling.

41 Section (3) Appraiser defined. As used in this act, an appraiser is a person who engages
42 in the business of providing an opinion of the value of dwellings. The term “appraiser” includes
43 persons that employ, refer, or manage appraisers and affiliates of such persons.

44 Section (4) Appraisal Management Company defined. As used in this act, an appraisal
45 management company is a person or entity who engages in the business of an intermediary or
46 agent between a creditor, mortgage broker, or affiliate of a creditor or mortgage broker and an
47 appraiser for the purpose of ordering, managing the appraisal process, making payments to the
48 appraiser, reviewing appraisal reports or submitting said reports to the client.