

Appraisal Institute - Kansas City Chapter Strongly Supports HB 2414

Reducing Regulatory Burdens on Kansas Appraisers

The world's largest professional organization of real estate appraisers strongly supports House Bill 2414 to reduce regulatory burdens imposed upon Kansas licensed and certified appraisers. HB 2414 would allow Kansas appraisers to more effectively meet the varying needs of their clients and users of appraisal services, and to perform valuation services that they are currently precluded by law from providing. The provisions of HB 2414 would help to uphold the public's trust in the valuation profession.

As introduced, HB 2414 would allow Kansas state licensed and certified appraisers to utilize the Standards of Valuation Practice (SVP) and Valuers' Code of Professional Ethics (CPE) of the Appraisal Institute (AI) when performing real estate valuation services for any purpose other than residential or commercial mortgage lending. In addition, HB 2414 would allow appraisers to perform evaluations for mortgage lending transactions where an appraisal is not required by federal law.

Appraisal Standards

Under current law, Kansas appraisers are required to utilize one set of proprietary standards – the Uniform Standards of Professional Appraisal Practice (USPAP) – promulgated by a private entity - The Appraisal Foundation - when performing any real estate appraisal assignments. HB 2414 would provide appraisers with flexibility to utilize another set of recognized valuation standards and professional ethics developed by the Appraisal Institute, an organization that for 80 years has been recognized worldwide as the leader in the development of high-quality valuation standards. The AI's standards require that the appraiser is credible and reliable, and that the appraiser has acted independently, impartially and objectively – upholding the fundamental tenets of appraisal practice.

The type of appraisal assignments for which the use of the AI's standards would be permitted are diverse and include ad valorem tax work, litigation support and dispute resolution, condemnation, estate and trust planning, feasibility studies, market analysis, mergers and acquisitions, international valuation and consulting, and valuation for financial reporting. The use of AI's standards would not be allowed for federally related transactions, or in any type of consumer residential or commercial mortgage lending transaction; there would be no impact on financial institutions or the mortgage markets. The decision to utilize the AI SVP and CPE would be made jointly between the appraiser and client.

Over the years, appraisers have identified many problems with USPAP that impact their ability to perform appraisal services for non-mortgage lending purposes in an effective and efficient manner that meets the needs of their clients. USPAP has become a rules-based, rather than principles-based, set of standards. It is difficult to use in litigation scenarios. Many of USPAP's Standards are in fact valuation methodologies, which should be left to the expertise of the valuation professional. Lastly, USPAP was developed in response to the savings and loan crisis of the late 1980's to institute appraisal standards for mortgage lending transactions. The provisions of USPAP are geared primarily towards meeting the appraisal needs of financial institutions involved in mortgage loan origination. Appraisers deserve regulatory flexibility to utilize simpler, but equally as effective, appraisal standards.

The AI's Standards of Valuation Practice and Code of Professional Ethics are a high-quality alternative to USPAP that provides similar assurances to clients and the public that the information being provided by the appraiser is credible and reliable, and that the appraiser has acted independently, impartially and objectively. The AI's standards and code of ethics were developed by a panel of standards experts with input from the public and users of appraisal services. They are simple, straightforward, and principles based. Unlike USPAP which changes every two years, the AI's standards are static. There is a provision in HB 2414 that specifically prohibits an appraiser from accepting a contingent fee.

At least two other states currently allow appraisers to utilize standards other than USPAP when performing appraisals for non-mortgage lending purposes – Georgia and Oklahoma. Legislation was enacted in Florida in 2017 which allows their state appraiser board to approve other valuation standards, including the AI's standards and code of ethics. Several other states are considering legislative and regulatory proposals like HB 2414.

There would be little, if any, impact on the investigation and enforcement responsibilities of the Kansas Real Estate Appraiser Board (KREAB). The types of assignments that would qualify for the use of SVP and CPE rarely, if ever, result in complaints to the KREAB. A strong majority of the complaints received by the KREAB are in relation to residential mortgage lending appraisals. In the unlikely event that the KREAB receives a complaint in relation to an appraisal performed according to the SVP and CPE, we believe that it would be easier to interpret and enforce the standards because they are, unlike USPAP, simple and straightforward.

Evaluations

Simply put, HB 2414 would change state law to allow appraisers to perform services that they are qualified, and allowed by federal law to perform, but are currently precluded by state law from providing.

Federally regulated financial institutions are permitted to utilize evaluations in lieu of appraisals when they engage in certain real estate related financial transactions that qualify for an "appraisal exemption". Real estate appraisers are currently precluded from competing to provide evaluation services to financial institutions because of state law that requires an appraiser to always comply with USPAP.

The marketplace for evaluations is large and growing, and is currently occupied by service providers who may not be the most competent and qualified party to provide those services. Most bank real estate related transactions – more than 85% - don't require an appraisal. Estimates are that for every appraisal by an appraiser that is ordered by a financial institution, there are 3 evaluations or evaluation-like products from non-appraisers. Evaluation-qualified loans represent a large body of work that currently sits largely out of sight for appraisers because of state law.

HB 2414 would change Kansas law to allow state-licensed and state-certified appraisers to provide evaluation services to federally regulated financial institutions without having to comply with USPAP. An appraiser providing evaluation services would be required to comply with the federal Interagency Appraisal and Evaluation Guidelines.

For more information:

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