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TitleTRACK

# The new Home Valuation Code of Conduct

You already may have heard of the Home Valuation Code of Conduct, which sprang out of a March 3 agreement reached between New York State Attorney General Andrew Cuomo, the Office of Federal Housing Enterprise Oversight and Fannie Mae and Freddie Mac.

The agreement addresses issues of appraisal coercion and independence in exchange for the AG's office terminating its investigation, and also states the HVCC will become standard conduct in the industry moving forward, overseen by the newly formed Independent Valuation Protection Institute.

**By MATTHEW SCHULER**
Daily Record Columnist

Some of the agreement's highlights:

No employee, director, officer or agent of the lender, nor any other third party acting as joint venture partner, independent contractor, appraisal management company or partner on behalf of the lender, shall influence or attempt to influence the development, reporting, result or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or in any other manner including but not limited to:

- expressing or implying a promise of future business, promotions or increased compensation for an appraiser;
- conditioning the ordering of an appraisal report or payment of an appraisal fee or salary or bonus on the opinion, conclusion or valuation to be reached, or on a preliminary estimate requested from an appraiser;
- requesting an appraiser provide an estimated, predetermined or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal report;
- providing to an appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;
- providing to an appraiser, appraisal management company or any entity or person related to the appraiser or appraisal management company, stock or other financial or non-financial benefits;
- ordering, obtaining, using or paying for a second or subsequent appraisal or automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe the initial appraisal was flawed or tainted and such basis is noted clearly and appropriately in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process.

Lenders must ensure that borrowers are provided, free of charge, with a copy of any appraisal report concerning the borrower's subject property immediately upon completion, and no less than three days prior to the closing of a loan. Borrowers may waive the three-day requirement. Lenders may require borrowers to reimburse the costs of an appraisal.

Lenders or any third-party specifically authorized by a lender — including but not limited to appraisal management companies and correspondent lenders — shall be responsible for selecting, retaining and providing for payment of all compensation to an appraiser. The lender will not accept any appraisal report completed by an appraiser selected, retained or compensated in any manner by any other third-party — including mortgage brokers and real estate agents.

A telephone hotline and e-mail address will be established to receive any complaints from appraisers, individuals or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, which will be attended only by a member of the office of the general counsel, chief compliance officer or other independent officer. Additionally, each approved appraiser will be notified in a separate document, or upon retention by a lender, of the hotline and e-mail address and their purpose.

Each borrower, as part of a cover letter accompanying an appraisal, will be notified of the hotline and e-mail address and their purpose. Within 72 hours of receiving any complaint, a lender must begin a preliminary investigation of the complaint and, upon completing an inquiry — or after a period not to exceed 60 days, whichever comes first — must notify the IVPI and any relevant regulatory bodies of any indication of improper conduct. The name and any identifying information of the person or entity that filed such a complaint will be kept in strictest confidence, except as required by law.

Lenders also are warned specifically that they must not retaliate in any way against the person or entity that brings such a complaint.

Lenders with a reasonable basis to believe an appraiser is vio-

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lating applicable laws or otherwise engaging in unethical conduct must refer the matter promptly to the IVPI and to the applicable state appraiser certifying and licensing agency.

Lenders must certify that an appraisal report was obtained in a manner consistent with the new code of conduct.

Experts say the anti-coercion measures will protect the public from the influence of outside pressure, whether it comes from mortgage lenders, management companies, brokers or real estate agents. If all parties involved in the process were licensed and governed properly, the consumer ultimately would be the overall winner in home buying and mortgage transactions.

The settlement agreement may be moot following the June 26 introduction of legislation in U.S. House of Representatives, HR 3044, which calls for a 180-day moratorium on the HVCC.

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