



# Missouri Real Estate Appraisers Commission

March 2009

## U.S. Attorney Launches Mortgage Fraud Task Force

November 12, 2008: United States Attorney Catherine Hanaway announced today the formation of the U.S. Attorney's Mortgage Fraud Task Force. The first meeting of the U.S. Attorney's Task Force on Mortgage Fraud occurred today at the U.S. Attorney's office in St. Louis.

"Most of us have learned the hard way that the mortgage industry is a crucial part of our economy and that dishonesty and corruption have damaged the integrity of that industry," said Hanaway. "This task force is an attempt to build on the relationships that have already been established among law enforcement over the last several years and to reach out to a broader group to make sure the prosecutorial response to the mortgage fraud crisis is as intense as the crisis itself."

The U.S. Attorney's Office in the Eastern District of Missouri has a long history of prosecuting mortgage fraud. "We have a strong record of prosecuting these fraudsters to the full extent of the law," said Hanaway. "This Task Force should cast a broader net so that we can catch more of these criminals and put them behind bars."

The Task Force aims are three-fold: (1) to stop mortgage fraud before it starts by educating industry officials, the borrowing community and local law enforcement; (2) to ensure ALL cases of fraud are brought to the attention of law enforcement and prosecutors and (3) once cases are charged, to take care that the voice of the communities victimized by mortgage fraud are heard by the courts.

The Task Force is made up of a broadly based group of law enforcement, government regulators and real estate professionals. In attendance at Wednesday's meeting were representatives of the Federal Bureau of Investigation, Internal Revenue Service, U.S. Postal Inspection Service, U.S. Department of Housing and Urban Development, Missouri Department of Insurance Financial Institutions and Professional Registration, Missouri Mortgage Bankers Association, Missouri Association of Mortgage Brokers, Missouri Bankers' Association, St. Louis Association of Realtors, the City of St. Louis Office of Development, the Washington Police Department, the Webster Groves Police Department, the Ferguson Police Department, the Hazelwood Police Department, the St. Louis County Police Department, the Missouri Sheriffs' Association, the St. Louis Better Business Bureau, and the United States Attorney's Office.

Anyone wishing to join the Task Force or to report evidence of mortgage fraud should call Assistant United States Attorney Tom Albus at (314) 539-2200.

**Governor**

Jeremiah W. (Jay) Nixon

**Department of Insurance, Financial  
Institutions and Professional  
Registration**

John M. Huff, Director

**Division of Professional Registration**

Jane A. Rackers, Director

**Missouri Real Estate Appraisers  
Commission**

Shawn Ordway, Chair  
Jefferson City

Daryl "Skip" Knopf, Member  
St Louis

Julie Molendorp, Member  
Belton

Janice Jones, Member  
Kansas City

Vacant, Member

Vacant, Member

Vacant, Public Member

Vanessa Beauchamp, Executive Director

Patty Morrow, Administrative Office  
Support Assistant

Sandy Stuenkel, Licensing Tech. II

# New Commission Members



**Janice M. Jones** has been a state certified appraiser since 1992 and upgraded to a general in 1996. She has completed assignments in rural and urban areas of Missouri and Kansas focusing on the Kansas City metro area and southwest Missouri. Her client list includes lenders, private parties, estates, attorneys and property tax consultants.

Janice began her career in real estate buying and refurbishing houses when barely out of her teens. From that she graduated to construction of new homes and ownership of a roofing company. She went on to obtain a real estate broker's license and contracted with HUD to manage refurbish and market foreclosed properties. In addition to her private sector experience, Janice served as County Assessor of Logan County, Oklahoma. Janice is also a VA and FHA approved appraiser. She, her husband Sam and daughter Sarah reside in Lee's Summit, Mo.



**Julie Moledorp** is a certified appraiser from Belton, MO. She has been a member of the Commission since May 2007. She is an appraiser for Instant Certified Appraisers, serving the Kansas Metro area. She was recently elected to the National Board of Directors for the Association of Appraisal Regulatory Officials. She also teaches advanced appraisal classes for Bobbitt and Company in Overland Park, KS.

Julie resides in Belton with her husband, Chris, who serves as the State Representative for the 123rd District. They have two sons, Tyler, 10 and Blake, 9. Julie is active in the Belton Chamber of Commerce, where she is currently the First Vice-President. She also serves on the Board of Directors for the Belton Corporation for Economic Development.



**STATE OF MISSOURI**  
Division of Professional Registration

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## Discipline

All complaints received by the Commission are numbered and tracked on the complaint log. A complaint may be based upon personal knowledge or information received from other sources. The complaint must be made in writing. Verbal or telephone communications are not acceptable, but you may request a complaint form by telephone, fill it out and mail back to the Commission.

In general, the complaint is considered to be a closed record and is not accessible to the public. Any complaint that is received by the Commission is acknowledged in writing. The complainant will be notified of the final outcome.

Any disciplinary action taken by the Commission is a matter of public record. The Commission believes publication of disciplinary actions to be in the public interest and has included such in this newsletter. If you have any questions, please contact Vanessa Beauchamp, Executive Director at our office. Please note that beginning January 2009 all disciplinary orders will be posted on the website.

The following disciplinary actions were taken by the Commission since the last newsletter and will be maintained as open records, according to the terms of the action:

**Anissa Witherspoon** – Certified Residential

2007006347 – Order Effective: 3/5/07 Probation: 3/5/07 – 3/5/08

**Glenn Newsom** – Certified Residential

RA003064 – Order Effective: 4/10/07 Suspension: 4/10/07 – 4/10/08; Probation 4/11/08 – 4/11/13

**Richard Payne** – Certified Residential

2007011161 – Order Effective: 4/19/07 Probation: 4/19/07 – 10/19/07

**John Thomas** – State License

RA002387 – Order Effective: 5/23/07 Revoked

**Steven Losey** – Certified Residential

2000173759 – Order Effective 5/24/07 Probation: 5/24/07 – 5/24/09

**Turner Lacey** – Certified General

RA001742 – Order Effective: 5/24/07 Revoked

**Charles Pursley** – State License

RA003328 – Order Effective: 6/8/07 Suspension: 6/8/07 – 6/8/09; Probation 6/9/09 – 6/8/2013

**Joseph Boyd** – Certified Residential

2006015566 – Order Effective: 6/15/07 Probation 6/15/07 – 6/15/08

**Samuel LeVota** – State License

RA002533 – Order Effective: 6/30/07 Suspension: 6/30/2007 - 12/30/2007; Probation 1/1/08-1/1/2013

**Jon Aultman** – Certified Residential

2003008058 – Order Effective: 6/15/07 Voluntary Surrender

(Discipline continued...)

**John Lattier** – Certified Residential  
RA001936 – Order Effective: 8/14/07      Revoked

**Kary Hoban** – State License  
2001002278 – Order Effective: 8/30/07      Probation 8/30/07 – 8/30/08

**David Hand** – Certified Residential  
2002009489 – Order Effective: 8/09/07      Revoked (Circuit Order for Stay Issued 8/29/07)

**Donald Stewart** – Certified Residential  
2001015439 – Order Effective: 7/12/07      Probation – 7/12/08

**Jacob Landfair** – State License  
2005009347 – Order Effective: 9/10/07      Probation 9/10/07 – 9/10/08

**Janelle Johnson** – Certified Residential  
2007035598 – Order Effective: 11/26/07      Probation 11/26/07 – 11/26/08

**Jonah Bax** – Certified Residential  
2007035993 – Order Effective 11/29/07      Probation 11/29/07 – 11/29/09

**Cama Suess** – Certified Residential  
2007036243 – Order Effective 11/30/07      Probation 11/30/07 – 11/30/09

**David Peterson** – Certified Residential  
2000155193 – Order Effective: 11/19/2007      Revoked

**James Bockwoldt** – Certified Residential  
RA001934 – Order Effective: 11/19/2007      Revoked

**Matthew Bunch** – Certified Residential  
2007025906 – Order Effective: 8/22/07      Probation 8/22/07 – 8/22/08

**Mark Shipman** – State License  
2007029150 – Order Effective: 9/18/07      Probation 9/18/07 – 9/18/08

**Patrick Brown** – State License  
2007033592 – Order Effective: 10/24/07      Probation 10/24/07 – 10/24/08

**Douglas Anderson** – Certified Residential  
2007026032 – Order Effective: 8/22/07      Probation 8/22/07 – 8/22/08

**Robert Milliken** – State License  
1999134711 – Order Effective: 08/09/07      Revoked

**Harvinder Pujji** – Certified Residential  
RA003327 – Order Effective: 11/20/07      Voluntary Surrender

**David Hartline** – Certified Residential  
RA002642 – Order Effective: 2/13/08      Probation 2/13/08 – 2/13/09

**Robert Milliken** – State License  
1999134711 – Order Effective: 2/27/08      Revoked

(Discipline continued...)

**Timothy Toal** – Certified Residential Suspension/Probation

2004003252 – Order Effective: 3/13/08      Suspension 3/13/08 – 4/24/08; Probation 4/25/08 – 4/25/2011

**JoAnne Pritchard** – Certified Residential

2003019053 – Order Effective: 3/24/08      Suspension 3/24/08 - 9/24/08; Probation 9/25/08-9/25/2010

**Travis Strayer** – Certified Residential

2008009550 – Order Effective: 4/2/08      Probation 4/2/08 – 4/2/2010

**Richard Tietjens** – State License

2005035723 – Order Effective: 4/4/08      Probation 4/4/08 – 4/4/09

**William Caldwell** – State License

2004018889 – Order Effective: 4/17/2008      Probation 4/17/2008 – 10/17/20088

**John Thurston** – Certified Residential

RA003045 – Order Effective: 4/16/2008      Probation 4/16/08 – 4/16/2010

**Glen Adrian** – Certified Residential

2000166246 – Order Effective: 4/30/08      Probation 4/30/08 – 4/30/2011

**Amy Cain** – Certified Residential

2008011994 – Order Effective: 5/1/08      Probation 5/1/08 – 5/1/2010

**David Cooke** – Certified Residential

2008016057 – Order Effective: 6/11/08      Probation 6/11/08 – 6/11/2009

**Gerald Garcia** – State License

RA001894 – Order Effective: 6/11/08      Suspension 6/11/08 – 6/25/08; Probation 6/26/08 – 6/26/2010

**Kevin Casburn** – State License

2001008524 – Order Effective: 6/11/08      Probation 6/11/08 – 12/11/2011

**Bryan Hunt** – Certified Residential

2008018306 – Order Effective: 6/26/08      Probation 6/26/08 – 6/26/2010

**Richard Lyon** – Certified Residential

2004018071 – Order Effective: 4/03/08      Probation 4/03/08 – 6/30/2008

**Patty Jackson** – Certified Residential

2007000164 – Order Effective: 07/07/2008      Probation: 7/07/2008 – 7/07/2011

**Hayden Meier** – Certified Residential

2005023304 – Order Effective: 04/17/2008      Probation: 4/17/2008 – 4/17/2010

**Cathy Hesselgesser** – State License

RA002480 – Order Effective: 8/21/2008      Revoked

**Daniel Brady** – Certified General

RA001620 – Order Effective: 8/21/08      Revoked

**Kenneth Herring** – Certified Residential

2008029157 – Order Effective: 9/17/08      Probation: 9/17/08 – 9/17/2013

*(Discipline continued...)*

**David Hand** – Certified Residential  
2002009489 – Order Effective: 10/3/08

Probation: 10/3/08 – 10/3/2009

**Thomas Noonan** – Certified Residential  
RA001940 – Order Effective: 11/11/08

Probation: 11/11/08 – 11/11/2010

**Janelle Johnson** – Certified Residential  
2007035598 – Order Effective: 11/25/08

Revoked

**Dana Scott** – Certified General  
2004003522 – Order Effective: 12/15/02

Suspension: 12/15/08 – 02/12/09; Probation 02/13/09 – 02/13/2011

**Darin Adam** – Certified Residential  
RA003176 – Order Effective 12/18/08

Probation - 12/18/08 – 1/02/2011

**Janet Toles** – State License  
2004003184 – Order Effective 11/24/08

Voluntary Surrender



## *Appraisal Foundation*

On a monthly basis the Foundation publishes a document titled USPAP Q&A , which is available on their website, [www.appraisalfoundation.org](http://www.appraisalfoundation.org)

The Commission encourages you to use the publication as a resource in your appraising practice.

## 2008 New Criteria Statistics

Applications received since the implementation of the new criteria: 7

Registered Trainees: 351

### Examination Statistics:

2006		Pass	Fail
General	All	60 (50.8)	58 (49.2%)
	Retake	18 (23.7%)	58 (76.3%)
Residential	All	241 (73%)	89 (27%)
	Retake	20 (35.2%)	34 (64.8%)
State	All	12 (75%)	4 (16%)
	Retake	--	1(100%)

2007		Pass	Fail
General	All	49 (53.3%)	43 (46.7%)
	Retake	9 (21.9%)	32 (78.1%)
Residential	All	168 (70.3%)	71 (29.7%)
	Retake	22 (34.3%)	42 (65.7%)
State	All	33 (67.3%)	16 (32.7%)
	Retake	4 (36.3%)	7 (63.4%)

2008		Pass	Fail
General	All	1 (100%)	0
	Retake	0	0
Residential	All	3 (75%)	(25%)
	Retake		--
State	All	--	1 (100%)
	Retake	--	1 (100%)

### Complaint Statistics

FY 07 (July 1, 2006 - June 30, 2007) - 118

FY 08 (July 1, 2007 to June 30, 2008) - 60

FY 09 (July 1, 2008 to February 1, 2009) - 83

### Renewal Statistics

#### 2004

2125 renewals mailed

1958 renewed

92% renewal rate

#### 2006

2457 renewals mailed

2257 renewed

92% renewal rate

#### 2008

2682 renewals mailed

2469 renewed

92% renewal rate



## *Future Correspondence from the Commission*

The Commission is excited to announce that all future newsletters will be sent via email. Newsletters will continue to be posted on the website at [pr.mo.gov/appraisers.asp](http://pr.mo.gov/appraisers.asp) if you wish to print a copy.

In addition, the Commission has indicated that they want to be in touch with their licensees on a more regular basis, therefore, periodically the Commission will be sending out newsworthy articles via email.

If you do not have an email address on file with the Commission, please take the time to submit one. You can do so by email ([reacom@pr.mo.gov](mailto:reacom@pr.mo.gov)), fax (573-751-0038) or give us a call at 573-751-0038.

**Note:** *If you do not wish to receive emails from the Commission please let us know.*

## *New FNMA Form*

Beginning April 2009, FNMA will be implementing a new form that all residential appraisers will be mandated to use for FNMA 1004 URAR appraisal reports. The form is called the "Market Conditions Addendum to the Appraisal Report."

## *2009 Missouri Appraiser Advisory Council (MAAC) Conference*

The Missouri Real Estate Appraisers Commission is pleased to announce that Dennis Badger will be presenting on April 3, 2009 at the MAAC conference. The Commission has attended several of Mr. Badger's presentations at past AARO conferences and appreciates his vast knowledge of USPAP and his ability to turn a not so "thrilling" topic into a lively, audience interactive presentation.

Dennis Badger is the Chief Investigator of the Kentucky Real Estate Appraisers Board where he oversees the investigative process, directs investigators, performs quality control, provides in-house training and ensures regulatory compliance.

Mr. Badger, a Certified General Real Property Appraiser, received his BBA in real estate from Eastern Kentucky University and is a Certified USPAP instructor by the Appraiser Qualifications Board (AQB).

Active in appraiser education since 1995, Mr. Badger has developed and conducted seminars on a variety of real estate valuation topics including USPAP, appraisal principles, procedures, appraisal review and real estate fraud and flipping.



## *FHA New Appraiser Legislation*

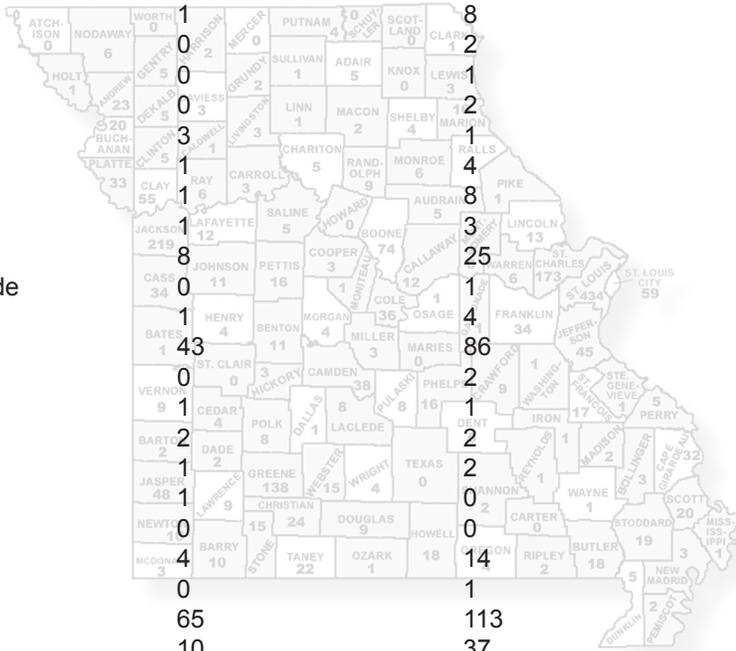
Effective October 1, 2008, only appraisers who are state certified and meet all other eligibility criteria may apply for placement on the FHA roster. Applications from state-licensed appraisers will no longer be accepted.



*Missouri Real Estate Appraisers Commission*

*(Real Estate Appraisers by County continued...)*

<u>County</u>	<u>General</u>	<u>Residential</u>	<u>License</u>
Camden	3	32	3
Cape Girardeau	18	14	0
Carroll	1	1	1
Carter	0	0	0
Cass	11	14	9
Cedar	0	3	1
Chariton	4	1	0
Christian	7	17	0
Clark	1	0	0
Clay	5	36	14
Clinton	0	3	2
Cole	11	23	2
Cooper	1	2	0
Crawford	1	8	0
Dade	0	2	0
Dallas	5	1	0
Davies	0	2	1
DeKalb	3	1	1
Dent	1	4	1
Douglas	1	8	0
Dunklin	1	3	1
Franklin	8	25	1
Gasconade	0	1	0
Gentry	1	4	0
Greene	43	86	9
Grundy	0	2	0
Harrison	9	1	0
Henry	2	2	0
Hickory	1	2	0
Holt	48	0	0
Howard	0	0	0
Howell	4	14	0
Iron	0	1	0
Jackson	65	113	41
Jasper	10	37	1
Jefferson	11	31	3
Johnson	1	10	0
Knox	0	0	0
Laclede	1	7	0
Lafayette	2	8	2
Lawrence	3	6	0
Lewis	1	2	0
Lincoln	3	10	0
Linn	0	0	1
Livingston	1	2	0
Macon	0	1	1
Madison	0	2	0
Maries	0	0	0
Marion	2	12	2
McDonald	0	3	0
Mercer	0	0	0
Miller	2	0	1
Mississippi	0	0	1
Moniteau	0	1	0
Monroe	5	1	0



*Missouri Real Estate Appraisers Commission*

*(Real Estate Appraisers by County continued...)*

<u>County</u>	<u>General</u>	<u>Residential</u>	<u>License</u>
Montgomery	1	5	0
Morgan	0	3	1
New Madrid	3	0	0
Newton	1	8	1
Nodaway	4	2	0
Oregon	1	3	0
Osage	0	1	0
Ozark	0	1	0
Pemiscot	1	1	0
Perry	0	5	0
Pettis	10	5	1
Phelps	4	9	3
Pike	0	1	0
Platte	6	20	7
Polk	3	5	0
Pulaski	0	7	1
Putnam	23	2	0
Ralls	0	2	0
Randolph	1	7	1
Ray	1	3	2
Reynolds	0	1	0
Ripley	1	1	0
Saline	0	5	0
Schuyler	0	0	0
Scotland	1	0	0
Scott	9	11	0
Shannon	9	2	0
Shelby	2	3	0
St. Charles	26	131	16
St. Clair	0	0	0
St. Francois	4	13	0
St. Louis City	26	32	1
St. Louis County	121	296	17
Ste. Genevieve	1	0	0
Stoddard	13	6	0
Stone	4	11	0
Sullivan	1	0	0
Taney	6	15	1
Texas	0	0	0
Vernon	2	7	0
Warren	3	3	0
Washington	0	1	0
Wayne	0	0	1
Webster	1	13	1
Worth	0	0	0
Wright	1	3	0
<b><u>Total</u></b>	<b>545</b>	<b>1313</b>	<b>178</b>

**2036** Active Missouri Appraisers  
**573** Active Out-of-State Appraisers  
**2573** As of January 22, 2009

## Mortgage Fraud Legislation - House Bill 2188

**House Bill 2188 was passed by the 94th General Assembly which relates to mortgage fraud. Below is the language that took effect on August 28, 2008. (Note: Bold text is new language and text in brackets [] is deleted language).**

Section A. Sections 339.100, 339.532, 443.809, 443.810, and 443.891, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 339.100, 339.175, 339.532, 339.543, 443.809, 443.810, 443.891, 443.930, and 570.310, to read as follows:

**339.100.** 1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any real estate-related activity of a licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability of a violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to timely deliver a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

*(House Bill 2188 continued...)*

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express written consent of the broker with whom associated;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;

(13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

(17) Failure to timely inform seller of all written offers unless otherwise instructed in writing by the seller;

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860;

(24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(25) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or license renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision;

(House Bill 2188 continued...)

(26) Engaging in, committing, or assisting any person in engaging in or committing mortgage fraud, as defined in section 443.930, RSMo.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate, or the imposition of a civil penalty by the commission not to exceed two thousand five hundred dollars for each offense. Each day of a continued violation shall constitute a separate offense.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children; [and]

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material; and

(5) Mortgage fraud as defined in section 570.310, RSMo.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission.

**339.175.** 1. If the commission believes that a real estate broker or real estate sales person has engaged in, is engaging in, or has willfully taken a substantial step toward engaging in an act, practice, omission, or course of business constituting mortgage fraud, as defined in section 443.930, RSMo, or that a person has materially aided or is materially aiding any such act, practice, omission, course of business, the commission may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the person. Upon a proper showing, the court may issue a permanent or temporary injunction, restraining order, or declaratory judgment.

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2. The court may impose a civil penalty against the person not to exceed two thousand five hundred dollars for each violation and may grant any other relief the court determines is just and proper under the circumstances including, but not limited to, a temporary suspension of any license issued by the commission.

3. The commission may initiate an investigation and take all measures necessary to find the facts of any potential violation of this section, including issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents and other evidence. The commission may conduct joint investigations, enter into confidentiality agreements and share information obtained relating to an investigation under this section with other governmental agencies.

4. The enforcement authority of the commission under this section is cumulative to any other statutory authority of the commission.

**339.532.** 1. The commission may refuse to issue or renew any certificate or license issued pursuant to sections 339.500 to 339.549 for one or any combination of causes stated in subsection 2 of this section. The commission shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

(1) Procuring or attempting to procure a certificate or license pursuant to section 339.513 by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensure, or through any form of fraud or misrepresentation;

(2) Failing to meet the minimum qualifications for certification or licensure or renewal established by sections 339.500 to 339.549;

(3) Paying money or other valuable consideration, other than as provided for by section 339.513, to any member or employee of the commission to procure a certificate or license pursuant to sections 339.500 to 339.549;

(4) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 339.500 to 339.549 for any offense of which an essential element is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any profession licensed or regulated by sections 339.500 to 339.549;

(6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections 339.500 to 339.549;

(7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;

(8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections 339.500 to 339.549 or the regulations of the commission for the administration and enforcement of the provisions of sections 339.500 to 339.549;

(11) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined analysis or opinion or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment;

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(12) Violating the confidential nature of governmental records to which the person gained access through employment or engagement to perform an appraisal assignment or specialized appraisal services for a governmental agency;

(13) Violating any term or condition of a certificate or license issued by the commission pursuant to the authority of sections 339.500 to 339.549;

(14) Violation of any professional trust or confidence;

(15) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(16) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 339.500 to 339.549 who is not licensed or certified and currently eligible to practice pursuant to sections 339.500 to 339.549;

(17) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(18) Disciplinary action against the holder of a license, certificate or other right to practice any profession regulated pursuant to sections 339.500 to 339.549, imposed by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(19) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or certification, or for license or certification renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision;

(20) Engaging in or committing, or assisting any person in engaging in or committing, any practice or act of mortgage fraud, as defined in section 443.930, RSMo.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the commission may, singly or in combination, publicly censure or place the person named in the complaint on probation on such terms and conditions as the commission deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke, the certificate or license. The holder of a certificate or license revoked pursuant to this section may not obtain certification as a state-certified real estate appraiser or licensure as a state-licensed real estate appraiser for at least five years after the date of revocation.

4. Notwithstanding other provisions of this section, a real estate appraiser license or certification shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of mortgage fraud as defined in section 570.310, RSMo. The commission shall notify the individual of the reasons for the revocation in writing, by certified mail.

5. A person whose license is revoked under subsection 4 of this section may appeal such revocation to the administrative hearing commission, as provided by chapter 621, within ninety days from the time the commission mails the notice of revocation. A person who fails to do so waives all rights to appeal the revocation.

6. A certification of a state-certified real estate appraiser or a license of a state-licensed real estate appraiser that has been suspended as a result of disciplinary action by the commission shall not be reinstated, and a person may not obtain certification as a state-certified real estate appraiser or licensure as a state-licensed real estate appraiser subsequent to revocation, unless the applicant presents evidence of completion of the continuing education required by section 339.530 during the period of suspension or revocation as well as fulfillment of any other conditions imposed by the commission. Applicants for recertification, relicensure or reinstatement also shall be required to successfully complete the examination for original certification or licensure required by section 339.515 as a condition to reinstatement of certification or licensure, or recertification or relicensure subsequent to revocation.

**339.543.** 1. If the commission believes that an appraiser has engaged in, is engaging in, or has willfully taken a substantial step toward engaging in an act, practice, omission, or course of business constituting mort-

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gage fraud, as defined in section 443.930, RSMo, or that a person has materially aided or is materially aiding any such act, practice, omission, or course of business, the commission may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the person. Upon a proper showing, the court may issue a permanent or temporary injunction, restraining order, or declaratory judgment.

2. The court may impose a civil penalty against the person not to exceed two thousand five hundred dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances including, but not limited to, a temporary suspension of any license issued by the commission.

3. The commission may initiate an investigation and take all measures necessary to find the facts of any potential violation of this section, including issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents and other evidence. The commission may conduct joint investigations, enter into confidentiality agreements, and share information obtained relating to an investigation under this section with other governmental agencies.

4. The enforcement authority of the commission under this section is cumulative to any other statutory authority of the commission.

**443.809.** [When the director has reasonable cause to believe that any person has not submitted an application for licensure and is conducting any of the activities described in subsection 1 of section 443.805, the director may examine all books and records of the person and any additional documentation necessary to determine whether such person is required to be licensed pursuant to sections 443.800 to 443.893.] The director shall have the authority, at any time and as often as reasonably necessary, to investigate or examine the books and records of any licensed person to assure compliance with sections 443.800 to 443.893. The director shall have the right to examine under oath, all persons whose testimony may be required relative to the business of any person being examined or investigated under sections 443.800 to 443.893. The director shall have free and immediate access to any licensed person's places of business and to all books and records related to the licensed business.

**443.810.** Effective May 21, 1998, any person who violates any provision of sections 443.805 to 443.812 shall be deemed guilty of a class C felony. In addition, in any contested case proceeding, the director or board may assess a civil penalty of up to five thousand dollars per violation for any violation of any of the provisions of sections 443.800 to 443.893.

**443.891.** 1. Upon making any one or more of the following preliminary findings, the director may issue a notice of [intent to issue an order] charges in support of [removal or prohibition, or] an order of removal and prohibition, which order may remove and prohibit a named person[, persons] or entity [or entities] from participating in loan brokering, mortgage brokering or mortgage brokerage service for any loan secured by real estate whether in the affairs of an exempt entity or in the affairs of one or more licensees [and may be permanent or for a specific shorter period of time] under sections 443.800 to 443.893, or in the affairs of any financial institution under the jurisdiction of the director. An order of removal or of prohibition may be permanent or for a specific term and may impose additional conditions including requiring restitution and imposition of a civil penalty not exceeding five thousand dollars per occurrence. The findings required by this section may be any one or more of the following:

(1) A finding that the [part] person or entity subject to the order has been convicted of a crime involving material financial loss to a licensee, a federally insured depository institution, a government-sponsored enterprise, a Federal Home Loan Bank, a Federal Reserve Bank or any other person;

(2) A finding that the person or entity subject to the order has [submitted, or caused to be submitted, any document that contains multiple willful and material misstatements of facts and includes the signature of the person or entity specified in the director's order or that is notarized, certified, verified or is in any other way attested to as to the document's veracity. An application for licensure or license renewal may be considered such a document.], in connection with the application for or procurement of a loan secured by real estate, made

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any material misstatement, misrepresentation, or omission. As used in this section, "material" means important information about which the board should be informed and which may influence a licensing or lending decision;

(3) A finding that the person subject to the order has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of mortgage fraud as defined in section 570.310, RSMo.

2. If a hearing is requested, the director or his or her designee shall conduct a hearing under chapter 536, RSMo.

3. If the respondent defaults, consents to an order of removal and prohibition, or if upon the record the director finds the grounds specified supporting a removal and prohibition are established, the director may issue such an order including conditions for restitution or for a civil penalty not to exceed five thousand dollars per occurrence to be effective thirty days after service and to remain in effect and enforceable except to the extent it is stayed, modified, terminated or set aside by action of the director or a reviewing court.

**443.930.** 1. It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to:

(1) Employ a device, scheme, or artifice to defraud;

(2) Make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading;

(3) Receive any portion of the purchase, sale, or loan proceeds, or any other consideration paid or generated in connection with a real estate closing that such person knew involved a violation of this section; or

(4) Influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal, except that this subsection does not prohibit a mortgage lender, mortgage broker, mortgage banker, real estate licensee, or other person from asking the appraiser to do one or more of the following:

(a) Consider additional property information;

(b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(c) Correct errors in the appraisal report in compliance with the Uniform Standards of Professional

Appraisal Practice.

2. Such acts shall be deemed to constitute mortgage fraud.

3. This section shall not be construed to create a private right of action.

**570.310.** 1. It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to willfully:

(1) Employ a device, scheme, or artifice to defraud;

(2) Make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading;

(3) Receive any portion of the purchase, sale, or loan proceeds, or any other consideration paid or generated in connection with a real estate closing that such person knew involved a violation of this section; or

(4) Influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal, except that this subsection does not prohibit a mortgage lender, mortgage broker, mortgage banker, real estate licensee, or other person from asking the appraiser to do one or more of the following:

(a) Consider additional property information;

(b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(c) Correct errors in the appraisal report in compliance with the Uniform Standards of Professional

Appraisal Practice.

2. Such acts shall be deemed to constitute mortgage fraud.

3. Mortgage fraud is a class C felony.

4. Each transaction in violation of this section shall constitute a separate offense.

5. Venue over any dispute relating to mortgage fraud or a conspiracy or endeavor to engage in or participate in a pattern of mortgage fraud shall be:

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(1) In the county in which the real estate is located;  
(2) In the county in which any act was performed in furtherance of mortgage fraud;  
(3) In any county in which any person alleged to have violated this section had control or possession of any proceeds from mortgage fraud;  
(4) In any county in which a related real estate closing occurred; or  
(5) In any county in which any document related to a mortgage fraud is filed with the recorder of deeds.

6. Prosecution under the provisions of this section shall not preclude:

(1) The power of this state to punish a person for conduct that constitutes a crime under other laws of this state;  
(2) A civil action by any person;  
(3) Administrative or disciplinary action by the state or the United States or by any agency of the state or the United States;  
(4) A civil forfeiture action; or  
(5) An action under chapter 407, RSMo.

# Home Valuation Code of Conduct

On May 1, 2009, Fannie Mae and Freddie Mac will implement the revised HVCC (Home Valuation Code of Conduct). The Commission reviewed and responded to the original proposal. To view the HVCC agreement, visit [www.freddiemac.com](http://www.freddiemac.com)

## I. Appraiser Independence Safeguards

A. An “appraiser” must be, at a minimum, licensed or certified by the state in which the property to be appraised is located.

B. No employee, director, officer, or agent of the lender, or any other third party acting as joint venture partner, independent contractor, appraisal company, 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, inducement, intimidation, bribery, or in any other manner including but not limited to:

- (1) withholding or threatening to withhold timely payment or partial payment for an appraisal report;
- (2) withholding or threatening to withhold future business for an appraiser, or demoting or terminating or threatening to demote or terminate an appraiser;
- (3) expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
- (4) conditioning the ordering of an appraisal report or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary value estimate requested from an appraiser;
- (5) requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report prior to the completion of the appraisal report, or requesting that an appraiser provide estimated values or comparable sales at any time prior to the appraiser’s completion of an appraisal report;
- (6) 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;
- (7) providing to an appraiser, appraisal company, appraisal management company, or any entity or person related to the appraiser, appraisal company, or appraisal management company, stock or other financial or non-financial benefits;
- (8) allowing the removal of an appraiser from a list of qualified appraisers, or the addition of an appraiser to an exclusionary list of disapproved appraisers, used by any entity, without prompt written notice to such appraiser, which notice shall include written evidence of the appraiser’s illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) or state licensing standards, substandard performance, improper or unprofessional behavior or other substantive reason for removal (except that this prohibition will not preclude the management of appraiser lists for bona fide administrative reasons based on written, management-approved policies);
- (9) ordering, obtaining, using, or paying for a second or subsequent appraisal or automated valuation model (AVM) in connection with a mortgage financing transaction unless: (i) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or (ii) unless such appraisal or automated valuation model is done pursuant to written, pre-established bona fide pre- or post-funding appraisal review or quality control process or underwriting guidelines, and so long as the lender adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest value; or
- (10) any other act or practice that impairs or attempts to impair an appraiser’s independence, objectivity, or impartiality or violates law or regulation, including, but not limited to, the Truth in Lending Act (TILA) and Regulation Z, or the USPAP.

C. Nothing in this section shall be construed as prohibiting the lender (or any third party acting on behalf of the

(Home Valuation Code of Conduct continued...)

lender) from requesting that an appraiser (i) provide additional information or explanation about the basis for a valuation, or (ii) correct objective factual errors in an appraisal report.

## II. Borrower Receipt of Appraisal

The lender shall ensure that the borrower is provided a copy of any appraisal report concerning the borrower's subject property promptly upon completion at no additional cost to the borrower, and in any event no less than three days prior to the closing of the loan. The borrower may waive this three-day requirement. The lender may require the borrower to reimburse the lender for the cost of the appraisal.

## III. Appraiser Engagement

A. The lender or any third party specifically authorized by the lender (including, but not limited to, appraisal companies, appraisal management companies, and correspondent lenders) shall be responsible for selecting, retaining, and providing for payment of all compensation to the 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). The lender may accept an appraisal prepared by an appraiser for a different lender, including where a mortgage broker has facilitated the mortgage application (but not ordered the appraisal), provided the lender: (1) obtains written assurances that such other lender follows this Code of Conduct in connection with the loan being originated; and (2) determines that such appraisal conforms to its requirements for appraisals and is otherwise acceptable.

B. All members of the lender's loan production staff, as well as any person (i) who is compensated on a commission basis upon the successful completion of a loan or (ii) who reports, ultimately, to any officer of the lender not independent of the loan production staff and process, shall be forbidden from (1) selecting, retaining, recommending, or influencing the selection of any appraiser for a particular appraisal assignment or for inclusion on a list or panel of appraisers approved to perform appraisals for the lender or forbidden from performing such work; and (2) having any substantive communications with an appraiser or appraisal management company relating to or having an impact on valuation, including ordering or managing an appraisal assignment. If absolute lines of independence cannot be achieved as a result of the lender's small size and limited staff, the lender must be able to clearly demonstrate that it has prudent safeguards to isolate its collateral evaluation process from influence or interference from its loan production process.

C. Any employee of the lender (or if the lender retains an appraisal company or appraisal management company, any employee of that company) tasked with selecting appraisers for an approved panel or substantive appraisal review must be (1) appropriately trained and qualified in the area of real estate appraisals, and (2) in the case of an employee of the lender, wholly independent of the loan production staff and process.

## IV. Prevention of Improper Influences on Appraisers

A. In underwriting a loan, the lender shall not utilize any appraisal report:

(1) prepared by an appraiser employed by:

- (a) the lender;
- (b) an affiliate of the lender;
- (c) an entity that is owned, in whole or in part, by the lender; or
- (d) an entity that owns, in whole or in part, the lender.

(2) prepared by an appraiser

- (a) employed,
- (b) engaged as an independent contractor, or
- (c) otherwise retained by

any appraisal company or any appraisal management company affiliated with, or that owns or is owned, in whole or in part by, the lender or an affiliate of the lender.

*(Home Valuation Code of Conduct continued...)*

B. Section IV.A. shall apply unless:

(1) the appraiser or, if an affiliate, the company for which the appraiser works, reports to a function of the lender independent of sales or loan production;

(2) employees in the sales or loan production functions of the lender have no involvement in the operations of the appraisal functions and play no role in selecting, retaining, recommending, or influencing the selection of any appraiser for any particular appraisal assignment or for inclusion on a list or panel of appraisers approved to perform appraisals for the lender or forbidden from performing such work;

(3) employees in the sales or loan production functions of the lender are not allowed to have any substantive communications with an appraiser, appraisal company, or appraisal management company relating to or having an impact on valuation or to be provided information about which appraiser has been given a particular appraisal assignment before completion of that assignment;

(4) the lender, or its agents, and any appraisal company or appraisal management company providing the appraisal to the lender do not provide the appraiser any estimated or target value of the property or the loan amount applied for (except that a copy of the sales contract for purchase transactions may be provided);

(5) the appraiser's compensation does not depend in any way on the value arrived at in any appraisal or upon the closing of the loan for which the appraisal was completed;

(6) the lender and any appraisal company or any appraisal management company providing the appraisal to the lender has adopted written policies and procedures implementing this Code of Conduct, including, but not limited to, adequate training and disciplinary rules on appraiser independence (including the principles detailed in Part I of this Code of Conduct) and has mechanisms in place to report and discipline anyone who violates these policies and procedures;

(7) the lender's appraisal functions are either annually audited by an external auditor or are subject to federal or state regulatory examination, and, unless prohibited by law, the lender promptly provides to Fannie Mae or Freddie Mac the results of any adverse, negative, or irregular findings of such audits and examinations indicating non-compliance with any provision of this Code of Conduct, whether or not the examination was conducted for the purpose of determining compliance with this Code of Conduct; and

(8) the lender and any entity described in section IV.A. providing the appraisal to the lender recognize that, once the Independent Valuation Protection Institute is established, the Institute will receive complaints for review and referral regarding non-compliance with the Code of Conduct. Referrals and reports shall be made to Fannie Mae and/or Freddie Mac regarding such complaints and the Institute will provide information on the results of complaint reviews to Fannie Mae and/or Freddie Mac and make them available to the other parties to the Home Value Protection Program and Cooperation Agreement.

C. In underwriting a loan, the lender shall not use an appraisal report prepared by an entity that is affiliated with, or that owns or is owned, in whole or in part by, another entity that is engaged by the lender to provide other settlement services, as that term is defined in the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 et seq., for the same transaction, unless the entity that provides the appraisal:

(1) has adopted written policies and procedures implementing this Code of Conduct, including, but not limited to, adequate training and disciplinary rules on appraiser independence (including the principles detailed in this Code of Conduct) and has mechanisms in place to report and discipline anyone who violates these policies and procedures;

(2) recognizes that, once the Independent Valuation Protection Institute is established, the Institute will receive complaints for review and referral regarding non-compliance with the Code of Conduct. Referrals and reports shall be made to Fannie Mae and/or Freddie Mac regarding such complaints and the Institute will provide information on the results of its review of such complaints to Fannie Mae and/or Freddie Mac and make them available to the other parties to the Home Value Protection Program and Cooperation Agreement.

D. Notwithstanding the requirements herein, the lender also may use in-house staff appraisers to (i) order appraisals, (ii) conduct appraisal reviews or other quality control, whether pre-funding or post-funding, (iii) develop, deploy, or use internal automated valuation models, or (iv) prepare appraisals in connection with transactions other than mortgage origination transactions (e.g. loan workouts), if it complies with the terms of this Code of Conduct.

E. The provisions of this section do not apply to institutions (including non-banking institutions) that meet the defi-

*(Home Valuation Code of Conduct continued...)*

inition of a “small bank” as set forth in 12 U.S.C. § 2908, and which Freddie Mae or Fannie Mae determines would suffer hardship due to the provisions, and which otherwise adhere to this Code of Conduct.

#### **V. The Independent Valuation Protection Institute**

An Independent Valuation Protection Institute (Institute) shall be created as approved by the parties. Subject to section IX, when the Institute is established, the lender will provide information to appraisers and borrowers regarding the availability of the Institute’s services, which are expected to include: (1) a telephone hotline and email address to receive any complaints of Code of Conduct non-compliance, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, which the Institute will review and report as provided in IV.B(8) and IV.C(2) of this Code of Conduct; and (2) the publication and promotion of best practices for independent valuation. The lender shall not retaliate, in any manner or method, against the person or entity that makes a complaint to the Institute.

#### **VI. Appraisal Quality Control Testing**

The lender agrees that it shall quality control test, by use of retroactive or additional appraisal reports or other appropriate method, a randomly selected 10 percent (or other bona fide statistically significant percentage) of the appraisals or valuations that are used by the lender, including the results of automated valuation models, broker’s price opinions, or “desktop” evaluations. The lender shall provide to Fannie Mae or Freddie Mac a report of any adverse, negative, or irregular findings of such quality control testing, and any findings indicating non-compliance with any provision of this Code of Conduct, with respect to loans sold to Fannie Mae and Freddie Mac respectively, and the Enterprise may enforce all applicable rights and remedies, including requiring the lender to repurchase mortgages or the Enterprise’s participation interest in mortgages.

#### **VII. Referrals of Appraisal Misconduct Reports**

Any lender that has a reasonable basis to believe an appraiser or appraisal management company is violating applicable laws, or is otherwise engaging in unethical conduct, shall promptly refer the matter to the applicable State appraiser certifying and licensing agency or other relevant regulatory bodies.

#### **VIII. Representations and Warranties**

A lender shall certify, warrant, and represent that the appraisal report was obtained in a manner in compliance with this Code of Conduct. If the Enterprise determines, on its own or from a referral made by the Institute, that a lender is in breach of a material aspect of this Code of Conduct or in violation of a provision of the Code by a complaint referred from the Institute, the Enterprise will enforce all applicable rights and remedies, including suspension or termination of the lender’s eligibility to sell loans to the Enterprise, if the lender fails to remediate.

#### **IX. Scope of Code**

Nothing in this Code of Conduct shall be construed to establish new requirements or obligations that: (1) require a lender to obtain a property valuation, or to use any particular method for property valuation (such as an appraisal or automated valuation model) in connection with any mortgage loan or mortgage financing transaction; (2) affect the acceptable scope of work for an appraiser in connection with a particular assignment; or (3) require the lender or any third party acting on behalf of the lender to take any action prohibited by federal or state law or regulation.

**The Missouri Real Estate Appraisers Commission recently inquired of Fannie Mae whether or not personal property boat docks are to be included in residential property valuations.**

**Below you will find the letter the Commission sent to Fannie Mae along with Fannie Mae's response.**

FannieMae  
C/o Legal Department  
3900 Wisconsin Ave NW  
Washington DC 20016

To Whom It May Concern:

The Missouri Real Estate Appraisers Commission requests the assistance of FannieMae pertaining to the issue of the treatment of boat docks when they are reported on FannieMae URAR forms.

The development and reporting of personal property and real property in appraisals is well documented and straightforward. However, we have been informed by appraisers in many parts of our state that it is common practice to include boat docks in the value reported as real property on the URAR form.

Our understanding from our appraisers is that they have been required by their clients (lenders) to include the value of the boat dock in the real property value on the URAR. In some cases, they are required to list the value of the boat dock in an addendum and clarify how much of the value reported as real property on the URAR is real property and how much is personal property.

We are concerned that the "common" practice in our state regarding boat docks has caused for personal property values to be included in the majority of reported real property values for property appraisals that include boat docks. Ostensibly, a large portion of these appraisals have likely been accepted by FannieMae lenders in our area.

We would appreciate any information or assistance FannieMae can provide concerning either the specific treatment of boat docks, or the overall treatment of personal property as it pertains to the use of the URAR form. More specifically, we ask the following:

- Has FannieMae instructed lenders or appraisers to include personal property boat docks in real property valuations (utilizing the URAR form)?
- Does FannieMae have supplemental standards or conditions that require boat docks to be included in real property valuations on the URAR form?
- Does FannieMae have any specific instructions pertaining to the treatment of boat docks in appraisals?
- Is there any reason that FannieMae would not consider a boat dock to be personal property?
- What is FannieMae's directive for the reporting of boat docks, or other personal property, when such property is included as a part of an appraisal being performed for FannieMae lenders on the URAR form?

While our investigation concentrates on the issue of boat docks, we would welcome any information FannieMae would like to provide regarding the development and reporting of personal property for appraisals completed on the URAR form.

Your prompt attention to this matter is appreciated.

Sincerely,  
  
Vanessa Beauchamp  
Executive Director

(Fannie Mae's response)



3900 Wisconsin Avenue, NW  
Washington, DC 20016-2892  
Phone 202 752 7000

December 15, 2008

RECEIVED  
DEC 19 2008

Ms. Kimberly Grinston  
Missouri Real Estate Appraisers Commission  
3605 Missouri Boulevard  
P.O. Box 1335  
Jefferson City, MO 65102-1335

Dear Ms. Grinston:

This letter is in response to your letter to Mr. Lund, dated November 6, 2008, regarding Fannie Mae's guidelines for purchasing a loan secured by personal as well as real property.

Fannie Mae purchases mortgage loans on real property and does not purchase loans secured by personal property except in very limited circumstances, such as certain manufactured housing loans. Fannie Mae's Uniform Residential Appraisal Report requires a market value of the real property, not personal property. For that reason, Fannie Mae expects that personal property is not included in the appraiser's opinion of market value.

As per the Fannie Mae Selling Guide, Part VII, 104: Eligible Mortgage, in particular Part VII, 104.01: Lien Type, "Personal property may not be included as additional security for any mortgage on a one-unit property unless we have specified otherwise." Therefore we expect that personal property is not included in the appraiser's opinion of market value. If items exist on the property that the appraiser has determined are personal property, the appraiser should discuss these items in the appraisal report and indicate that they have not been included in the final opinion of market value.

To address the specific questions referenced in your letter, we are pleased to provide the following comments:

- Has Fannie Mae instructed lenders or appraisers to include personal property boat docks in real property valuations (utilizing the URAR form)?

Answer: Fannie Mae has not instructed lenders to include personal property boat docks in real property valuations.

- Does Fannie Mae have supplemental standards or conditions that require boat docks to be included in real property valuations on the URAR form?

Answer: Fannie Mae does not have supplemental standards or conditions that require boat docks to be included in real property valuations.

- Does Fannie Mae have any specific instructions pertaining to the treatment of boat docks in appraisals?

Answer: Fannie Mae does not specifically define personal property. Fannie Mae believes that a professional appraiser who has the knowledge, experience, and geographical competence to complete the appraisal assignment is best suited for identifying personal property items in the appraisal.

- Is there any reason that Fannie Mae would not consider a boat dock to be personal property?

Answer: Whether a boat dock is personal property or real property in part depends on if there are riparian rights (water rights) or non-riparian rights as well as the type of dock. Once again this decision is to be made by the professional appraiser completing the appraisal assignment.

- What is Fannie Mae's directive for the reporting of boat docks, or other personal property, when such property is included as a part of an appraisal being performed for Fannie Mae lenders on the URAR form?

Answer: Based on the Fannie Mae Selling Guide, Part VII, 104.01, Fannie Mae expects that personal property will not be included in the appraiser's opinion of market value. The appraiser should discuss the presence of personal property items as well as analyze the effect on value, if any.

As a general practice, Fannie Mae actively participates in discussions with appraisal industry associations and organizations to promote prudent appraisal practices and standards and the consistent application of our policies and guidelines. We appreciate your inquiry and look forward to hearing again from you on any other matter that may be of concern.

Sincerely,

Gwen Muse-Evans  
Vice President, Credit Policy & Controls

cc: Tom Lund



STATE OF MISSOURI  
Division of Professional Registration  
**MISSOURI REAL ESTATE APPRAISERS COMMISSION**  
3605 Missouri Boulevard  
P.O. Box 1335  
Jefferson City, MO 65102-1335

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