

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 1601 of Title 15, Commerce and Trade.

§ 3354. Automated valuation models used to estimate collateral value for mortgage lending purposes**(a) In general**

Automated valuation models shall adhere to quality control standards designed to—

- (1) ensure a high level of confidence in the estimates produced by automated valuation models;
- (2) protect against the manipulation of data;
- (3) seek to avoid conflicts of interest;
- (4) require random sample testing and reviews; and
- (5) account for any other such factor that the agencies listed in subsection (b) determine to be appropriate.

(b) Adoption of regulations

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 of Consumer Financial Protection, in consultation with the staff of the Appraisal Subcommittee and the Appraisal Standards Board of the Appraisal Foundation, shall promulgate regulations to implement the quality control standards required under this section.

(c) Enforcement

Compliance with regulations issued under this subsection shall be enforced by—

- (1) with respect to a financial institution, or subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency, the Federal financial institution regulatory agency that acts as the primary Federal supervisor of such financial institution or subsidiary; and
- (2) with respect to other participants in the market for appraisals of 1-to-4 unit single family residential real estate, the Federal Trade Commission, the Bureau of Consumer Financial Protection, and a State attorney general.

(d) Automated valuation model defined

For purposes of this section, the term “automated valuation model” means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer’s principal dwelling.

(Pub. L. 101-73, title XI, §1125, as added Pub. L. 111-203, title XIV, §1473(q), July 21, 2010, 124 Stat. 2198.)

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§ 3355. Broker price opinions**(a) General prohibition**

In conjunction with the purchase of a consumer’s principal dwelling, broker price opinions may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property.

(b) Broker price opinion defined

For purposes of this section, the term “broker price opinion” means an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property’s condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 3354(c)¹ of this title.

(Pub. L. 101-73, title XI, §1126, as added Pub. L. 111-203, title XIV, §1473(r), July 21, 2010, 124 Stat. 2198.)

Editorial Notes

REFERENCES IN TEXT

Section 3354(c) of this title, referred to in subsec. (b), probably means section 3354(d) of this title, which defines “automated valuation model”.

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§ 3356. Exemption from appraisals of real estate located in rural areas**(a) Definitions**

In this section—

- (1) the term “mortgage originator” has the meaning given the term in section 1602 of title 15; and
- (2) the term “transaction value” means the amount of a loan or extension of credit, including a loan or extension of credit that is part of a pool of loans or extensions of credit.

(b) Appraisal not required

Except as provided in subsection (d), notwithstanding any other provision of law, an appraisal in connection with a federally related transaction involving real property or an interest in real property is not required if—

- (1) the real property or interest in real property is located in a rural area, as described in

¹ See References in Text note below.

section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations;

(2) not later than 3 days after the date on which the Closing Disclosure Form, made in accordance with the final rule of the Bureau of Consumer Financial Protection entitled “Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)” (78 Fed. Reg. 79730 (December 31, 2013)), relating to the federally related transaction is given to the consumer, the mortgage originator or its agent, directly or indirectly—

(A) has contacted not fewer than 3 State certified appraisers or State licensed appraisers, as applicable, on the mortgage originator’s approved appraiser list in the market area in accordance with part 226 of title 12, Code of Federal Regulations; and

(B) has documented that no State certified appraiser or State licensed appraiser, as applicable, was available within 5 business days beyond customary and reasonable fee and timeliness standards for comparable appraisal assignments, as documented by the mortgage originator or its agent;

(3) the transaction value is less than \$400,000; and

(4) the mortgage originator is subject to oversight by a Federal financial institutions regulatory agency.

(c) Sale, assignment, or transfer

A mortgage originator that makes a loan without an appraisal under the terms of subsection (b) shall not sell, assign, or otherwise transfer legal title to the loan unless—

(1) the loan is sold, assigned, or otherwise transferred to another person by reason of the bankruptcy or failure of the mortgage originator;

(2) the loan is sold, assigned, or otherwise transferred to another person regulated by a Federal financial institutions regulatory agency, so long as the loan is retained in portfolio by the person;

(3) the sale, assignment, or transfer is pursuant to a merger of the mortgage originator with another person or the acquisition of the mortgage originator by another person or of another person by the mortgage originator; or

(4) the sale, loan, or transfer is to a wholly owned subsidiary of the mortgage originator, provided that, after the sale, assignment, or transfer, the loan is considered to be an asset of the mortgage originator for regulatory accounting purposes.

(d) Exception

Subsection (b) shall not apply if—

(1) a Federal financial institutions regulatory agency requires an appraisal under section 225.63(c), 323.3(c), 34.43(c), or 722.3(e) of title 12, Code of Federal Regulations; or

(2) the loan is a high-cost mortgage, as defined in section 1602 of title 15.

(e) Anti-evasion

Each Federal financial institutions regulatory agency shall ensure that any mortgage originator that the Federal financial institutions regulatory agency oversees that makes a signifi-

cant amount of loans under subsection (b) is complying with the requirements of subsection (b)(2) with respect to each loan.

(Pub. L. 101-73, title XI, §1127, as added Pub. L. 115-174, title I, §103, May 24, 2018, 132 Stat. 1299.)

CHAPTER 35—RIGHT TO FINANCIAL PRIVACY

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§ 3401. Definitions

For the purpose of this chapter, the term—

(1) “financial institution”, except as provided in section 3414 of this title, means any office of a bank, savings bank, card issuer as defined in section 1602(n)¹ of title 15, industrial loan company, trust company, savings association, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) “financial record” means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer’s relationship with the financial institution;

(3) “Government authority” means any agency or department of the United States, or any officer, employee, or agent thereof;

(4) “person” means an individual or a partnership of five or fewer individuals;

(5) “customer” means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person’s name;

(6) “holding company” means—

(A) any bank holding company (as defined in section 1841 of this title); and

(B) any company described in section 1843(f)(1) of this title;

¹ See References in Text note below.