

In January the Consumer Financial Protection Bureau (CFPB) issued a new set of regulations relating to appraisals. While the new regulation isn't too different from the old, it does place every appraiser square in the bulls' eye of lawsuits. If you're not aware of this, hang on, this is going to hurt a bit.

In the past

In the past, borrowers were allowed to receive a copy of the appraisal at or after closing on the house purchase or at the closing of a refinance loan. If at a later date they discovered problems with the house that were not disclosed in the appraisal it was difficult for buyers to sue the appraiser and claim that a bad appraisal influenced their purchasing decision. All of that has changed.

New regulations require the following:

- Requires lenders to notify applicants (borrowers) within three business days of receiving a loan application of their right to receive a copy of the appraisal.
- Requires lenders to provide applicants a copy of **each** appraisal, and other written valuation, promptly upon their completion, or three business days **before** consummation or account opening, whichever is earlier.
- Prohibits creditors from charging for the copy of appraisals and other written valuations, but permits creditors to charge applicants **reasonable fees** for the cost of the appraisals or other written valuation.

So what does this mean for the appraiser?

Copies of the appraisal will be given to the borrower **before** they close on a loan (purchase or refinance).

Since the borrower has a copy of the appraisal, **before closing**, they can, and may, rely upon the appraisal information to help them make their purchase, or borrowing, decision.

If at a later date someone **believes** (does not have to prove) that the appraisal is of poor quality and misled the borrower/buyer, in any way ----- *now get ready for it* ---- the borrower has a very solid legal ability to sue the appraiser for poor performance and recover damages.

The form-filling monkey appraisers, who slap together a couple of appraisals a day, poorly research information and, have no support for their adjustments, are going to get sued.

The appraiser's time and cost of doing business just increased.

Hark, I hear the cost of E&O insurance increasing and appraisers wasting away their lives in lawsuit Hell.

\$400 fees are not sufficient to cover your costs (time, money & health) due to massive legal exposure. I strongly suggest increasing your fees.

I am not going to go through all of the legal theories and requirements, I'm just trying to tell appraisers - things have changed.

Appraisers often tell me that their work is just fine Banks accept it. It must be OK so I'm not worried.

Really! That's your measure of good work - the bank accepted it? Would that be the same bank that recently paid billions in fines due to accepting poor quality appraisals!? Are you really hanging your hat, and career, on what an unlicensed underwriter said or demanded?

As an expert witness I review many appraisals; Most of these appraisals should **never** have been relied upon by a lender. Years after the fact, appraisers are being sued for poor performance. As a consultant, attorneys ask me to review appraisers work. Often it's **impossible** to say that their clients' appraisal and work-file are up to a **competent appraiser's standard of care**. Due to appraisers pulling adjustments out of thin air, failing to keep vital information in their work-file, combined with the use of bad comparables, it's almost impossible for the attorney to mount a defense against these lawsuits. In the end many appraisers lose these suits and they lose BIG. Now with a lawsuit loss, the appraisers E&O costs will go up or it may be impossible to renew. The appraiser is placed on a black list by the lender and the appraiser is forced to accept low paying appraisal orders..... or goes out of business. (See my Working RE Webinar: 1,000 Appraisals a Year)

So What Can An Appraiser Do?

Assume, one day in your future, someone like me be personally looking at your appraisal and your work-file. If it's me performing the investigation, I'll use a microscope and probe **everywhere**. How comfortable will you be?

Assume that your appraisals **do not** meet a competent appraiser's standard of care. On the contrary, assume they are a failure. This doesn't mean they are, but it's this assumption that should keep you up at night, and even better, push you toward producing higher quality appraisals.

Make sure you have **proof** of your adjustments in your work-file (print or electronic). Not a belly scratch opinion of the adjustment, but an Honest to Goodness proof of the adjustment. By the way, that's called **evidence** at trial.

Single man offices are the easiest to attack and crush. Stop being a one man band. Pull several local appraisers together and form a larger office. The more appraisers interact with

one another, the better their final work product with the added benefit of being protected from bad clients.

Join an appraisal association like the Appraisal Institute, NAIFA, or at least your local appraisal coalition (ACOW, OCAP, CoAA, etc.).

Appraisers are waiting until the last minute to cram in their CE hours, getting “any ole cheap on-line classes,” to renew their certificate. Stop it!

Laws are changing on a monthly basis and appraisers are not keeping current on the changes. Make sure the instructors are great and know the **new** laws. Good education costs more but what you will learn, when taking live education and talking to other appraisers, may save you from a fatal lawsuit.

Take the best education you can find, not the cheapest, but the very best. This is key to your survival.

Produce a better appraisal, **then** increase your fees. Drop the low paying clients. Your income will increase - really!

With the new rules in place, imagine 100 million new reviewers out there looking at your work. Buyers, by the millions, are going to be reading your appraisals. If anything goes wrong in their lives, they are going to make your life Hell. It's a whole new world out there. The quality of appraisals must increase or face being sued out of business and your home. I'm just trying to help.