HOUSE DOCKET, NO. FILED ON: 1/14/2009

**HOUSE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Charles A. Murphy**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the misrepresentation of the value of a consumer's dwelling.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Charles A. Murphy | 21st Middlesex |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act relative to the misrepresentation of the value of a consumer's dwelling.

 *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

 Section (1) No creditor in connection with a residential mortgage transaction, as these terms are defined in section 1 of chapter 140D of the Massachusetts General Laws, or mortgage broker, and no affiliate of a creditor or mortgage broker, no employee of an appraisal management company, and no person licensed as a real estate broker or salesperson, shall directly or indirectly coerce, influence, or otherwise encourage an appraiser to misstate or misrepresent the value of such dwelling.

(i) Examples of actions that violate this act include:

(A) Implying to an appraiser that current or future retention of the appraiser depends on the amount at which the appraiser values a consumer's principal dwelling;

(B) Excluding an appraiser from consideration for future engagement because the appraiser reports a value of a consumer’s principal dwelling that does not meet or exceed a minimum threshold;

(C) Telling an appraiser a minimum reported value of a consumer’s principal dwelling that is needed to approve the loan;

(D) Failing to compensate an appraiser because the appraiser does not value a consumer’s principal dwelling at or above a certain amount; and

(E) Conditioning an appraiser's compensation on loan consummation.

(ii) Examples of actions that do not violate this act include:

(A) Asking an appraiser to consider additional information about a consumer's principal dwelling or about comparable properties;

(B) Requesting that an appraiser provide additional information about the basis for a valuation;

(C) Requesting that an appraiser correct factual errors in a valuation;

(D) Obtaining multiple appraisals of a consumer's principal dwelling, so long as the creditor adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest value;

(E) Withholding compensation from an appraiser for breach of contract or substandard performance of services as provided by contract; and

(F) Taking action permitted or required by applicable federal or state statute, regulation, or agency guidance.

No appraiser shall knowingly submit an appraisal report that misrepresents the value of a consumer’s dwelling.

A violation of this section shall constitute an unfair and deceptive act or practice under Massachusetts General Laws, chapter 93A.

Section (2) When an extension of credit is prohibited. In connection with a consumer credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before loan consummation, of a violation of this act in connection with an appraisal shall not extend credit based on such appraisal unless the creditor documents that it has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.

Section (3) Appraiser defined. As used in this act, an appraiser is a person who engages in the business of providing an opinion of the value of dwellings. The term “appraiser” includes persons that employ, refer, or manage appraisers and affiliates of such persons.

Section (4) Appraisal Management Company defined. As used in this act, an appraisal management company is a person or entity who engages in the business of an intermediary or agent between a creditor, mortgage broker, or affiliate of a creditor or mortgage broker and an appraiser for the purpose of ordering, managing the appraisal process, making payments to the appraiser, reviewing appraisal reports or submitting said reports to the client.