

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Charles A. Murphy

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:

NAME: Charles A. Murphy	DISTRICT/ADDRESS: 21st Middlesex
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The Commonwealth of Massachusetts

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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