



# Memo

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**To** AI Chapter Government Relations Chairs  
**From** Richard Maloy, MAI, SRA, Chair, Government Relations Committee  
**Date** May 10, 2011  
**Subject** AI Advocacy for Residential Appraisers

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Dear Colleagues:

As chair of the Government Relations Committee, I want to take this opportunity to update you on initiatives led by the Appraisal Institute on behalf of SRA, residential associate members and others practicing in residential appraisal. As you know, professional real estate appraisers are rising to significant challenges facing the real estate market, providing credible, well-researched market information to real estate investors, financial institutions, consumers and other users of appraisal services. These professional services are delivered in the face of a significant economic recession, sizable industry and market change and transformation, and government encroachment on the profession.

Like our members, the Appraisal Institute's government relations activities are rising to legislative proposals and regulations by actively representing our members' interests before Congress, federal agencies, and state legislative and regulatory authorities. In the face of a seemingly continuous wave of challenges facing our profession, the Appraisal Institute is advancing the interests of our members through continuous engagement and education of policymakers, direct advocacy, and education and guidance for our members. Recent actions overseen by the Appraisal Institute Government Relations Committee include:

- [Outreach](#) to the Consumer Financial Protection Bureau and the state Attorneys General, who will soon have enforcement authority with respect to the Truth in Lending Act and the issue of customary and reasonable fees. The letter congratulates a recent cooperation agreement and brings to their attention two important issues that will soon be under their purview – customary and reasonable fees and separation of appraisal and appraisal management fees on the HUD-1 statement.
- Continuing outreach and dialogue to the Federal Reserve seeking clarification of the agency's interpretation of the "first presumption of compliance" for customary and reasonable fees. The Appraisal Institute has requested a follow up face-to-face meeting with the Federal

Reserve to seek clarification of the first presumption, urge issuance of a statement of guidance, and to take aggressive enforcement action against violators. Further, we maintain contact with other federal bank regulatory agencies (OCC, OTS, etc.), who are examining banks for compliance with *competency requirements* under the Interagency Appraisal and Evaluation Guidelines. Lastly, we are maintaining active liaison with Congressional oversight committees regarding our [ongoing concerns](#) with the Interim Final Rule.

- Requesting the Federal Housing Finance Agency [maintain an even hand](#) regarding appraisal fees and appraiser costs in relation to the new Uniform Appraisal Dataset (UAD). By most indications, the new UAD will result in an increased scope of work, and appraisers should not be constrained to charge commensurate fees. The Appraisal Institute also offered the resources of the organization to resolve potential complications that may result during implementation and future design of the analytics phase, including potential consumer and underwriter confusion and reliance on the report; possibly masking the work of poor appraisers by providing the GSEs that “looks good” but is poor in quality; appraisers potentially “appraising to forms” rather than completing thorough investigation and analysis; and the lack of tools to analyze data that is collected under UAD.
- Coordinating with Appraisal Institute chapters in Illinois, Maryland, Missouri, and Nevada successful campaigns [defeating legislation](#) that would “rig” the appraisal process by prohibiting consideration of distressed sales as comparables. Appraisal Institute chapters in all four states played key roles in defeating the bills, which would have resulted in each state’s legislative body dictating the real estate valuation process.
- Monitoring state legislative and regulatory activity as it relates to expanding the ability of real estate brokers and sales people to perform broker price opinions. This year we have proactively worked on legislative proposals in Arkansas, Connecticut, Hawaii, Minnesota, Mississippi and New Jersey. I am happy to report that we worked in conjunction with the Connecticut Chapter to defeat legislation that would have allowed for the use of BPOs in mortgage lending transactions, specifically as part of loan modifications. In Mississippi, we were able to make many favorable modifications to their proposal, including a requirement that BPOs be done in accordance with standards and guidelines that are adopted by the Mississippi Real Estate Commission. In Minnesota, we were able to clarify the ability of a real estate appraiser to perform a market price analysis and to not be subject to USPAP. In New Jersey, we developed suggestions to the state appraisal board as it considers development of an Advisory Opinion on the use of BPOs. While onerous legislative proposals were enacted into law in Arkansas and Hawaii, our chapters in those states remain involved in rulemaking and enforcement processes.
- Continuing to advance comprehensive registration and regulatory programs for Appraisal Management Companies. This year, we have worked with our chapters and state appraiser boards in Kentucky, Maryland, Montana, and Nebraska to enact very strong AMC regulatory laws. Other bills are currently pending in Alabama, Illinois, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, South Carolina, and Texas. We are confident that these bills will be enacted into law before the end of these states’ 2011 state legislative session. If

all of these bills are enacted, AI will have played the lead role in getting legislation enacted in 36 states between 2009 and 2011 – a tremendous accomplishment to say the least.

On a related note, the Appraisal Institute also has received many questions from members regarding indemnification agreements imposed by some AMCs. These agreements seek to hold appraisers responsible for the actions of AMCs, among other things. A recent message from President Joe Magdziarz, MAI, SRA, advised members to know and understand any agreement they sign and not to sign any agreement that they feel is unreasonable or not in their best interests. The message also encourages members to read an [excellent article](#) published in Valuation magazine, and I would encourage all members to stay abreast of related issues through [Appraiser News Online](#).

It is worth noting that 12 states have enacted provisions - supported by the Appraisal Institute - to prohibit appraisers from signing indemnification agreements to be held liable for services performed by AMC's, AMC's agents, employees or independent contractors. Appraisers in those states (MD, MS, MN, MO, NC, NM, SD, TN, UT, VA, VT, and WA) should be aware of these laws and refer potential violations to state regulators. The Appraisal Institute will continue its advocacy in support of such provisions throughout the country and monitor and advance other legislative and regulatory initiatives in support of our members.

We will continue to keep you updated on the results of those reviews and our efforts. I encourage you to stay involved and to contact your [Government Relations Committee](#) representative of your concerns, ideas, and opportunities.

Thank you for your leadership and commitment to the Appraisal Institute and appraisal profession.