



## **NORTH CAROLINA APPRAISAL BOARD**

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### **Guidance Document**

#### **Customary and Reasonable Compensation for Appraisers**

On January 1, 2017, Session Law 2016-61 will become effective. SL 2016-61 states that:

*For appraisal assignments of property secured by the principal dwelling of the consumer, an appraisal management company shall compensate appraisers in compliance with section 129E(i) of the federal Truth in lending Act (15 U.S.C. §1601 et. seq.) and regulations promulgated thereunder. The Board shall adopt rules necessary to enforce this subsection. Rules establishing customary and reasonable rates shall be based on objective third-party information such as academic studies and independent private sector surveys.*

The Board anticipates beginning rulemaking on this law in the near future. Until that time, however, the Board issues this Guidance Document for AMCs and appraisers to interpret and implement the requirements of SL 2016-61.

According to 12 CFR §1026.42 there are two ways in which an AMC may comply with the new law.

1. AMCs are presumed to comply with the new law, if:
  - (a) The AMC (agent) compensates the appraisers in an amount that is reasonably related to recent rates paid for comparable appraisal services performed in the geographic market of the property being appraised. In determining this amount, a creditor or its agents shall review the factors below and make any adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable:
    - (1) The type of property,
    - (2) The scope of work,
    - (3) The time in which the appraisal services are required to be performed,
    - (4) Fee appraiser qualifications,
    - (5) Fee appraiser experience and professional record, and
    - (6) Fee appraiser work quality

(b) The AMC (agent) and the Client (creditor) do not engage in any anticompetitive acts in violation of state or Federal law that affect the compensation paid to fee appraisers, including:

- (1) Entering into any contracts or engaging in any conspiracies to restrain trade through methods such as price fixing or market allocation, as prohibited under section 1 of the Sherman Antitrust Act, 15 U.S.C. 1, or any other relevant antitrust laws; or
- (2) Engaging in any acts of monopolization such as restricting any person from entering the relevant geographic market or causing any person to leave the relevant geographic market, as prohibited under section 2 of the Sherman Antitrust Act, 15 U.S.C. 2, or any other relevant antitrust laws.

2. AMCs are also presumed to comply with the new law by determining the amount of compensation paid to the fee appraiser by relying on information about rates that:

- (a) Is based on objective third-party information, including fee schedules, studies, and/or surveys prepared by independent third parties such as government agencies, academic institutions, and private research firms,
- (b) Is based on recent rates paid to a representative sample of providers of appraisal services in the geographic market of the property being appraised or the fee schedules of those providers, and
- (c) In the case of information based on fee schedules, studies, and surveys, such fee schedules, studies, or surveys, or the information derived therefrom, excludes compensation paid to fee appraisers for appraisals ordered by appraisal management companies.

The Appraisal Board hereby states that the Appraisal and Inspection Fees Schedule for North Carolina appraisals published by the Department of Veterans Affairs, Atlanta Regional Loan Center (VA fee schedule) is a government agency fee schedule which AMCs may use as a presumption of compliance with SL 2016-61.

The Board does not require AMCs to pay appraisal fees only in accordance with the VA fee schedule. An AMC may pay a fee that differs from the VA fee, but must be able to show compliance with SL 2016-61 if a complaint is filed regarding the fee offered or paid to the appraiser.

The customary and reasonable fee for a complex assignment may reflect the increased time, difficulty, and scope of work required for such an appraisal and may include an amount over and above the customary and reasonable fee for non-complex assignments.