



November 23, 2009

The Honorable Mary Landrieu
Chairwoman
Senate Committee on Small Business
Entrepreneurship
428A Russell Senate Office Building
Washington, DC 20510

The Honorable Olympia Snowe
Ranking Member
Senate Committee on Small Business and
Entrepreneurship
428A Russell Senate Office Building
Washington, DC 20510

Dear Madam Chairwoman and Ranking Member

On behalf of the 35,000 members of our respective professional organizations, we are writing to comment on H.R. 3854, the Small Business Financing and Investment Act of 2009, which is currently pending before your Committee having passed the House of Representatives on October 29, 2009. Among other things, the bill raises the threshold for appraisals for commercial real estate backed by the Small Business Administration (SBA) loans from \$250,000 to \$400,000.

Our organizations strongly oppose this provision and respectfully urge you to refrain from raising the SBA appraisal threshold for the reasons provided below.

As you know, real estate appraisals are an indispensable component of basic risk management practices. Professional appraisals assist lenders in making safe and sound lending decisions by giving them a credible understanding the value of collateral at loan inception. The appraisal permits lenders to assess their risk of loss in the unfortunate event of borrower default and loan foreclosure. Moreover, appraisal of the collateral property during the underwriting process is often a key factor in the terms and conditions of the loan itself. Lenders making business loans should always want to know the value of the real estate collateral especially in today's economy and real estate market. Members of our organizations are reporting significant reductions in value in some commercial real estate; with property types common to the SBA loan program being particularly vulnerable (retail, motels, c-stores, etc.).

We have been advised that the proposal to raise the threshold from \$250,000 to \$400,000 was included for the purpose of providing "regulatory relief" for SBA lenders. We reject the thesis that there is any need for regulatory relief for SBA lenders or that this is an appropriate time to grant such relief. To the contrary, we strongly believe the current banking crisis exists not because it *has been too* burdensome to underwrite a loan. Instead, we believe the current crisis is the result of easy money/credit, loose underwriting requirements and lack of oversight and enforcement. In fact, a recent report issued by the Congressional Research Services identifies these factors as major causes of the current crisis¹.

The SBA is particularly at risk when guaranteeing as much as 90 percent of business and commercial real estate loans made by private lenders. When a loan goes into liquidation, it results in a negative draw on SBA reserves, which is ultimately paid by taxpayers. Accordingly, SBA loan delinquencies have increased dramatically in recent

¹Jinkling, M. (2009, January 29). *Causes of the Financial Crisis*. Congressional Research Service. Available electronically at <http://www.au.af.mil/au/awc/awcgate/crs/r40173.pdf>

years. In the last two years, the number of SBA loans that are more than 60 days past due, delinquent, or in liquidation has nearly doubled from 10 percent to 18 percent. Startlingly, more than 12 percent of SBA loans today stand in liquidation, up from 6 percent in 2007.²

With those numbers in mind, we find it surprising that in today's financial climate, where bankruptcies are facing some of the biggest SBA lenders in the country, Congress would even consider loosening basic risk management and underwriting requirements. This is tantamount to giving someone who's drowning a glass of water, given the current state of commercial real estate. Waiving these requirements is the wrong message to be sending to the market and a dangerous proposition for taxpayers.

For these reasons, we would strongly encourage you to eliminate the provision loosening SBA due diligence requirements as the bill moves forward.

Instead, our organizations suggest correcting a long-standing loophole in SBA appraisal policy that allows real estate appraisers with a State "license" – the lowest credential - to perform appraisals of commercial real estate. Federal appraisal regulations and minimum appraiser qualifications criteria established by the Appraiser Qualifications Board of the Appraisal Foundation require all commercial real estate appraisals with a transaction value greater than \$250,000 to be appraised, at a minimum, by a state "Certified" real property appraiser³. Any legislation to reauthorize existing SBA programs should make SBA more consistent with federal banking agency requirements and mandate the use of certified appraisers and prohibit the performance of commercial real estate appraisals by licensed appraisers.

We respectfully request a meeting to discuss these concerns with you. We will follow up with staff to arrange a meeting to discuss these concerns in greater detail.

Thank you in advance for your consideration and if you have any questions, please contact Bill Garber, Director of Government Relations for the Appraisal Institute, at 202-292-5586 or bgarber@appraisalinstitute.org, or Peter Barash, Government Relations Consultant, American Society of Appraisers at (202) 466-2221 or peter@barashassociates.com.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers

Cc: The Honorable Kurt Schrader
The Honorable Karen Gordon Mills, Administrator, Small Business Administration
Mr. James Hammersley, Deputy Assistant Administrator, Small Business Administration

² Delinquency Report: Delinquency Report: Loans, Guarantees & Liquidation Assets Outstanding, National Association of Government Guaranteed Lenders. Available at http://www.naggl.org/Content/NavigationMenu/GuaranteedLending/SBA_Statistics/SBA_Statistics.htm

³ (2009, October). *The Real Property Appraiser Qualifications Criteria*. Appraiser Qualifications Board, The Appraisal Foundation. Available at http://www.appraisalfoundation.org/s_appraisal/bin.asp?CID=117&DID=287&DOC=FILE.PDF