April 8, 2013

Assemblyman David P. Bobzien
Chairman, Assembly Commerce and Labor Committee
1605 Wesley Drive, Reno, NV 89503-2332

Re: Assembly Bill 204

Assemblyman Bobzien:

The American Society of Appraisers (ASA), the largest multidisciplinary professional appraisal organization in the United States, is writing to express strong opposition to Assembly Bill 204, which would prevent real estate appraisers from considering foreclosure sales or short sales as comparable sales data when performing an appraisal (except where no other comparable sale transaction exists). AB204 would also require appraisers who perform appraisals in Nevada, but have a principal office in another jurisdiction, to have an additional office within Nevada.

If passed, AB204 would force appraisers to report artificially inflated property values when performing an appraisal, calling into question the safety and soundness of mortgage transactions that rely on accurate valuations of underlying collateral. Such a requirement also appears to us to be a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) with which Nevada’s licensed and certified appraisers must comply. The potential harm to consumers and financial institutions in the state of Nevada should AB204 pass far outweighs the illusory short term benefits derived from legislating an imposed and artificial value onto property. Additionally, the requirement that appraisers have an office in Nevada appears to violate federal law requiring that appraisers properly licensed in one state be issued a temporary practice permit in another state in connection with a federally-related transaction. If the federal agency responsible for overseeing appraisal practice in federally-related transactions – the Appraisal Subcommittee – were to determine that Nevada statutes prohibited the issuance of a temporary license to an out-of-state appraiser who does not have a Nevada office, the Nevada state appraiser licensing board would be sanctioned.

Of the three approaches to determining value in real property, the comparable sales approach is the most commonly used method for determining the value of real property whenever that value is germane to a transaction (whether as underlying collateral to a mortgage, for insurance purposes, or in the disposition of estate assets). This approach tasks appraisers with finding recent sales transactions of similar types of property (both in lot characteristics and improvements) and, adjusting for variables between the subject property and the comparables, using the sales price of the comparables to determine the value of the subject property. In many cases in this recovering real estate market, these comparables will include distressed inventory such as foreclosures and short sales.

The potential harm of AB204 to consumers and lenders in Nevada is great: Lenders, understanding the overstated nature of appraisals performed in conjunction with mortgage originations, will be forced to increase their loan-to-value (LTV) ratio requirements to ensure that the underlying collateral actually supports the sales price of a mortgage-financed transaction. Collateral valuations that deviate from USPAP will most likely be found unacceptable under the underwriting guidelines of Fannie Mae and Freddie Mac – preventing such loans from being sold in the secondary mortgage markets. This, in turn, will tighten credit availability for consumers who are otherwise qualified for mortgages, and slow the pace of recovery in Nevada. And where lending does occur, lenders incur greater risk that the collateral will not provide as sufficient a buffer should the mortgage loan default and a foreclosure sale be required – perpetuating the events that caused the original downturn in the first place.

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From the appraiser’s perspective, AB204 raises concerns relative to whether an appraiser could conform to the bill’s requirements and still abide by the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP), as well as the requirements for secondary market resale promulgated by Fannie Mae and Freddie Mac. Added to that, the proposed requirement that appraisers maintain an office within Nevada when they have a principal office outside the state imposes undue burdens on appraisers who are otherwise qualified to perform appraisals in Nevada. This will likely affect the number and quality of appraisers available to Nevada residents, further stifling any recovery of the real estate market.

ASA urges the Assembly Commerce and Labor Committee to reject A204. If you have any questions, or wish to discuss our concerns further, please contact either Peter Barash, ASA’s government relations consultant, at 301-651-1296 or peter@barashassociates.com, or John D. Russell, ASA’s director of government relations, at 703-733-2103 or jrussell@appraisers.org.

Regards,

Daniel Van Vleet, ASA
International President
American Society of Appraisers

Samuel F. Luceno, FASA
Chairman, Real Property Committee
American Society of Appraisers