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Code Designed to Guarantee Realistic Real Estate Appraisals

By Greg Farrell

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NEW YORK — In an attempt to fix a fundamental flaw that led to inflated and fraudulent mortgages in recent years, New York's top legal officer announced an agreement Monday that aims to bolster the credibility and independence of home appraisals.

New York Attorney General Andrew Cuomo said Monday that his "New Home Value Protection Code," scheduled to go into effect in 2009, would transform the mortgage industry.

In exchange for terminating his investigation of Fannie Mae (FNM) and Freddie Mac (FRE), the two mortgage purchasers pledged to enforce Cuomo's new code, which is designed to guarantee fair valuations by real estate appraisers. The code stipulates that:

- Lenders shouldn't use "in-house" appraisers, who might feel pressured to agree with valuations suggested by their bosses.
- Lenders shouldn't rely on appraisal management companies they own, as was the case with Countrywide Financial (CFC), which used its subsidiary, LandSafe, for appraisals and other closing services.
- Mortgage brokers, who earn a commission based on the size of a mortgage, shouldn't be allowed to choose appraisers.
- Fannie and Freddie will fund an institute that will enforce the code and establish a national hotline for appraisers to call when they feel unduly pressured.

While Cuomo, a state official, has no power to implement new rules, the decision by Fannie and Freddie to sign on to the code of conduct could force all lenders to play ball. The two government-sponsored entities purchase about 60% of all U.S. home loans.

"This is a really positive step," says Richard Bitner, a former mortgage lender and author of *Greed, Fraud & Ignorance*, a book about the subprime lending collapse. "The whole process is screwy. What Cuomo's doing is great."

Bill Garber, spokesman for the Appraisal Institute, which represents the industry, praised the agreement, but said his group wanted to take a closer look at the ban on bank-controlled appraisers. "We've seen instances where those operations, in a controlled and adequately examined and enforced environment, can operate successfully," he says. "I'm not sure it's fair to ban all in-house appraisers just because of a few bad actors."

Industry experts see the agreement as shaking up the real estate appraisal business.

"It's going to create massive change," said Brian Chappelle, a partner at Potomac Partners in Washington, D.C., a consulting firm to the mortgage industry.

He said mortgage lenders that own appraisal companies — such as Wells Fargo (WFC) and Countrywide Financial — may have to spin off those divisions because they would be prohibited from selling mortgages to Fannie and Freddie unless the appraisal work was being done independently.

Cuomo has been investigating billions of dollars of home loans that Fannie and Freddie bought from banks, including the largest U.S. savings and loan, Washington Mutual (WM).

"I believe consumer confidence should be restored," Cuomo said. "With these reforms we will have a safer, better evaluation process."