From the SDREC Director, Melissa Miller

There is a nip in the air and it sure feels good after a very hot summer. I hope you can get out and enjoy the nice days before winter hits us. With summer ending, the Fall Caravan is upon us. Please plan on attending this worthwhile educational session. It’s well worth the cost.

The renewal deadline of November 30 is fast approaching for those holding licenses expiring on December 31, 2012. Please keep in mind that if you have an active license expiring on this date and fail to complete your continuing education and/or fail to have errors and omissions insurance covering you on January 1, 2013, your license will be placed on inactive status. This means you are not allowed to engage in any activities requiring licensure by this agency. To do so, constitutes a Class 1 Misdemeanor and potential disciplinary action by the Commission. Please don’t forget that we have made it very easy for you to renew your license and E&O Insurance online.

Social media is everywhere and licensees have to take precautions when participating in this. The Commission has advertising rules and also has Internet guidelines posted to its website. These guidelines were endorsed by ARELLO and adopted by the Commission.

The Commission’s Specialized Real Estate Advisory Group recently met. The meeting addressed commercial brokerage forms and drafts of these forms were taken to the Commission for their review. The group will meet again before the next Commission meeting.

Have a wonderful fall season!

Commission Actions

The following actions by the Commission have become effective since the last report in the newsletter. A Stipulation and Assurance of Voluntary Compliance is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation. A Consent Agreement and Order is an admission of violation and voluntary acceptance of the terms determined by the Commission in lieu of a formal hearing. A suspension held “in abeyance” is one where the Commission has set aside the suspension provided the licensee comply with all of the other terms of the agreement.

Alex Trusov, Sioux Falls, Broker. Consent agreement. Violation of 36-21A-71(1) for engaging in the practice of real estate while not having current Errors & Omissions Insurance coverage. Penalty of $500 and completion of 6 hours of License Law education.

Fall Caravan Information

Register Online NOW for the Fall Caravan! (You will be directed to the Licensee Login page of the SDREC website.)

“Secrets of Top Negotiators”

6 Hours ELECTIVE; 6 Hours Postlicensing Period 2—Negotiation

Registration Fee: Early Bird $60 online or postmarked no later than October 2; $70 After Oct. 2 and on-site (The Commission will retain $10 of any refunded registration fee).

Buyers and sellers want an agent who can help them achieve their specific goals. Marie Spodek provides entertaining and practical approaches to negotiation by helping you identify your strengths and weakness that you can practice in real life and refine in your real estate practice. You will take away specific skills to implement that will ultimately provide a competitive edge to your clients.

Course Instructor—Marie Spodek, DREI, CNE

On-site Registration: 8:15 a.m.; Course: 9 a.m.—4 p.m.
Wednesday, October 10—Spearfish Holiday Inn
Thursday, October 11—Rapid City Hilton Garden Inn—815 E. Mall Drive, Rapid City—NEW LOCATION
Friday, October 12—Pierre RedRossa Conference Rm—808 W. Sioux Ave., Pierre—NEW LOCATION
Monday, October 15—Watertown Ramkota and Event Center
Licensees are encouraged to take advantage of online registration for the caravan! A mail-in registration form as also been posted on the SDREC website for individuals who would like to register for the caravan by mail with a personal check.

**It's Not Too Early to Think About License Renewal!**

It's September! Now is the time for licensees who need to renew in 2012 to make sure continuing or postlicensing education requirements will be completed by the November 30 renewal deadline. By having the education completed by the renewal deadline, the new licenses can be processed much faster.

Renewal notices will be mailed out in early October to those needing to renew. Responsible Brokers - if your license is due to renew, please set the example by completing all of your own license renewal requirements by the November 30 deadline and communicate with your associates to ensure they are also complying with the renewal deadlines.

**Consumer Financial Protection Bureau proposes rules to bring greater accountability to mortgage market**

**Rules Would Help Consumers Understand Mortgage Costs and Comparison Shop**

WASHINGTON, D.C. — the Consumer Financial Protection Bureau (CFPB) proposed rules that would bring greater accountability to the mortgage loan origination market. These rules, which the CFPB is seeking comment on and will finalize by January 2013, would make it easier for consumers to understand mortgage costs and compare loans so they can choose the best deal.

"Consumers have a hard time comparing loans when they are dealing with a bewildering array of points and fees," said CFPB Director Richard Cordray. "We want to provide consumers with clearer options and enable them to choose the loan that they believe is right for them."

The Dodd-Frank Wall Street Reform and Consumer Protection Act places certain restrictions on the points and fees offered with most mortgages and the qualification and compensation of loan originators. Most notably, without this rulemaking, the Dodd-Frank Act would prohibit payment of upfront points and fees for most mortgages even where a consumer prefers a loan with a lower interest rate and some upfront costs. The CFPB is seeking public comment on a proposal that would:

- **Require Lenders to Make a No-Point, No-Fee Loan Option Available**: It is often difficult for consumers to compare loans that have different combinations of points, fees, and interest rates. Under the proposed rule, creditors would have to make available to consumers a loan without discount points or origination points or fees, unless the consumers are unlikely to qualify for such a loan. These options would enable a consumer buying or refinancing a home to better compare competing offers from different creditors, better able to compare loan offers from a particular creditor, and decide whether they would receive an adequate reduction in monthly loan payments in exchange for the choice of making upfront payments.

- **Require an Interest-Rate Reduction When Consumers Elect to Pay Upfront Points or Fees**: Consumers can pay points, which are expressed as a percentage of the loan amount, and fees to covers costs associated with origination or prepaid interest charges. While these points and fees come in many different names and combinations, they all should function similarly to reduce the interest rate and thus a consumer’s monthly loan payments. The CFPB is seeking comment on proposals to require that any upfront payment, whether it is a point or a fee, must be “bona fide,” which means that consumers must receive at least a certain minimum reduction of the interest rate in return for paying the point or fee.

In addition to regulating upfront points and fees, the CFPB is proposing changes to existing rules governing mortgage loan originators’ qualifications and compensation. Mortgage loan originators, who take mortgage loan applications from consumers seeking to buy a home or refinance a mortgage, include mortgage brokers and loan officers. The rules the CFPB is proposing would:

- **Set Qualification and Screening Standards**: Under state law and the federal Secure and Fair Enforcement for Mortgage Licensing Act, loan originators currently have to meet different sets of standards, depending on whether they work for a bank, thrift, mortgage brokerage, or nonprofit organization. The CFPB is proposing rules to implement Dodd-Frank Act requirements that all loan originators be qualified. The proposal would help level the playing field for different types of loan originators so consumers could be confident that originators are ethical and knowledgeable. The proposed rule includes:
  - Character and Fitness Requirements: All loan originators would be subject to the same standards for character, fitness, and financial responsibility;
  - Criminal Background Checks: Loan originators would be screened for felony convictions; and
  - Training Requirements: Loan originators would be required to undertake training to ensure they have the knowledge necessary for the types of loans they originate.

- **Prohibit Payment of Steering Incentives to Mortgage Loan Originators**: In 2010, the Federal Reserve Board issued a rule that was designed to curtail the practice of loan originators directing consumers into higher priced loans based not on
the consumer’s interest, but on the possibility that the loan originator could earn more money. The Dodd-Frank Act included a similar provision banning the practice of varying loan originator compensation based on interest rates or other loan terms. The CFPB’s rule would implement the Dodd-Frank Act provision and clarify certain issues in the existing rule that have created industry confusion.

- **Place Restrictions on Arbitration Clauses and Financing of Credit Insurance:** The proposal implements Dodd-Frank Act provisions that, for both mortgage and home equity loans, prohibit including mandatory arbitration clauses in loan documents and increasing loan amounts to cover credit insurance premiums.

The CFPB has engaged with consumers and industry, including through a Small Business Review Panel, and used this feedback in developing the proposed rules. The Bureau believes that today’s proposal, if adopted, would promote stability in the mortgage market, which would otherwise face radical restructuring of the current pricing structure in order to comply with Dodd-Frank.

The public will have 60 days, until October 16, 2012, to review and provide comments on the proposed rules. The CFPB will review and analyze the comments before issuing final rules in January 2013.

An overview of the proposal is available at:  

The proposed rules are available at:  

The SBREFA Panel report on the outreach with small servicers is available at:  

### New Licensees

**Broker Associate**
- Aday, Janelle L - Sioux Falls
- Allen, Tara L - Sioux Falls
- Andrews, Nathan, Sioux Falls
- Barber, Joan M - Sioux Falls
- Bartholomaeus, Ashley J - Sioux Falls
- Blair, Darren L - Sioux Falls
- Brenner, Christina - Rapid City
- Burgers, Ryan J - Lester
- Christianson, Andrea G - Sioux Falls
- Cummings, Lori K - Rapid City
- DeMers, Taryn D - Rapid City
- Feno, Caroline I - Sioux Falls
- Fletcher, Debra L - Spearfish
- Gran, Cherish N - Spearfish
- Hovorka, Kimberly M - Sioux Falls
- Hultgren, Holly M - Rapid City
- Johner, Doree A - Spearfish
- Johnson, Steven D - Fargo, ND
- Kaitfors, Michael B - Spearfish
- Kaires, Timothy J - Sioux Falls
- Leasure, Amber J - Hill City
- Lewter, Wendy C - Harrisburg
- McAfee, Martha A - Sioux Falls
- Pinn, Heidi M - Sioux Falls
- Reif, Teresa M - Madison
- Rhoades, Cher M - Spearfish
- Reffgenberger, Elizabeth - Sioux Falls
- Robson, Jr., Paul W - Sioux Falls
- Rust, Curtis H - Sioux Falls
- Rust, Stacie R - Sioux Falls
- Scheurer, Stanley W - Rapid City
- Thomisee, Brittany L - Deadwood
- Tysdal, Ryan - Sioux Falls
- Varick, Jr., Casey L - Box Elder
- Westenberg, Derek A - Harrisburg
- Wintz, Katie M - Yankton
- Wordeman, Robert G - Rapid City
- Zomermaand, Stephanie - Sioux Falls

**Auctioneer**
- Ymker, Allen G - Corsica

**Broker**
- DeHueck, Adam - Pierre
- Gault, Natasha A - Vermillion
- Giese, Tim - Ortonville, MN
- Petersen, Scott C - Sioux Falls
- Woods, Jason D - Sioux City, IA

**Property Manager**
- Bush, Crystal D - Rapid City

**Res. Rental Agent**
- Arnold, Melissa M - Sioux Falls
- Craven, Donna - Mission
- Fulkerson, Sarah M - Mobridge
- Haugen, Sarah M - Brookings
- Tubbs, Kimberly D - Sioux Falls
- Veldkamp, Brittany S. K - Sioux Falls

**Salesperson**
- Andersen, Lynn "Doug" - Hemingford, NE
- Eide, April A - Bismarck, ND
- Fisher, Danielle M - Riverhead, NY
- Ludeman, Richard A - Garfield, AR
- Olson, Brian P - Bode, IA

**Registered Home Inspector**
- Fiester, Jonathan D - Black Hawk
- Honken, Paul B - Brandon
- Kindle, Larry R - Fort Pierre
- Rowland, Loren T - Madison
- Van MeVeren, Shane M - Sioux Falls

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09/13/2012
APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Labor and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program.

New Licensees – June/July 2012

Alexis Konstant, State-Registered – Spearfish, SD
Travis Rypkema, State-Registered – Rapid City, SD
Kevin J. Kennedy, State-Registered – Sioux Falls, SD
Steven L. Bales, State-Registered – Huron, SD
Hans Dettefson, State-Certified General – Chicago, IL
James H. Rothermich, State-Certified General – West Des Moines, IA
Peter L. Wysong, State-Certified General – Salmon, ID
Michael F. Amundson, State-Certified General – Bloomington, MN
Joseph B. Leedom, State-Registered – Sioux Falls, SD
Scott C. Gardner, State-Certified General – Harrisonville, MO
Timothy J. McGuire, State-Certified General – Holstein, IA

Appraisers - 2012 Renewal

NOTICE! The 2012 appraiser renewal applications were mailed the first week in July. The applications were due in the Appraiser Certification Program office by August 17, 2012 for renewal of certificates for state-certified general, state-certified residential, state-licensed and state-registered appraisers. If you have not submitted your 2012 renewal, please do so as soon as possible to avoid a late renewal penalty fee and possible lapse in authority to appraise.

2013 Renewal - Appraisers are required to complete the 2012-2013 Edition of the 7-hour National Uniform Standards of Professional Appraisal Practice (USPAP) Update Course during the period of January 1, 2012 through June 30, 2012. The certificate of completion is to be submitted with your 2013 renewal application. Do not submit verification of completion of the course during this renewal period. If the course is not completed by June 30, 2012 the applicant for the 2013 renewal period will be assessed a $100 administrative penalty fee.

Supervising Appraisers – 2012 Renewal

NOTICE! The 2012 supervising appraiser endorsement renewal applications were mailed the first week in July. The applications were due in the Appraiser Certification Program office by August 17, 2012 for renewal of the supervising appraiser endorsement. If you have not submitted your 2012 renewal, please do so as soon as possible to avoid a late renewal fee and possible lapse in authority to be an endorsed supervisor.

Disciplinary Action Information

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Department of Revenue and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, SD 57501 or e-mail – Sherry.Bren@state.sd.us. Include in the request for information the name of the appraiser and the appraiser’s city and state of residence. (Disciplinary action may include denial, suspension, censure, reprimand, or revocation of a certificate by the department. (ARSD 20:14:11:03))

The following disciplinary action has been taken by the Department of Labor and Regulation, Appraiser Certification Program:

James E. Bailey, Sioux Falls, South Dakota – Complaint Cases # 11-382 and # 11-396. The Department of Labor and Regulation entered into a Consent Agreement with James E. Bailey to accept the voluntary surrender of his State-Certified Residential Appraiser Certificate for thirty (30) months effective June 21, 2012.


For the period January 1, 2012 through August 18, 2012, the Department has received six upgrade applications and initiated eight complaint investigations.

Upgrades – Three upgrades pending, one agreed disposition executed, and two upgrades issued.
Complaints – Five cases pending, one case pending hearing, and consent agreements executed in two cases.
Appraisal Practices Board Adopts Voluntary Guidance: APB Valuation Advisory # 3: Residential Appraising in a Declining Market

The Appraisal Foundation is pleased to announce that the Appraisal Practices Board (APB) has adopted “APB Valuation Advisory # 3: Residential Appraising in a Declining Market.” The APB is an independent Board of The Appraisal Foundation, which is responsible for developing voluntary guidance on recognized valuation methods and techniques.

APB Valuation Advisory # 3: Residential Appraising in a Declining Market, includes guidance on:

- How Should an Appraiser Define a Declining Market?
- What Databases are Available to Support a Market Trend Conclusion?
- What are Some Alternative Value Definitions?
- Defining a Market vs. a Neighborhood
- Verification of Data
- Support for Adjustments
- Integration of the Opinion of Market Trends in the Appraisal Analysis
- Using Statistical Tools to Develop a Rate of Change in the Market

To view a copy of the APB Valuation # 3: Residential Appraising in a Declining Market please visit the following link on the Foundation website:

https://appraisalfoundation.sharefile.com/d/s312c40fc01b4987b


Appraiser Qualifications Board Q&A

The Appraiser Qualifications Board (AQB) of The Appraisal Foundation establishes the minimum education, experience and examination requirements for real property appraisers to obtain a state certification. The AQB Q&A is a form of guidance issued by the AQB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria in specific situations and to offer advice from the AQB for the resolution of appraisal issues and problems. The AQB Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. AQB Q&A does not establish new Criteria. AQB Q&A is approved by the AQB without public exposure and comment.

June 2012 (Revised) – Vol. 4, No. 1.

General Requirements

Question 1: I hold a Certified Residential credential and I am pursuing a Certified General credential in the same jurisdiction. Does the AQB require any supervised experience to upgrade from Certified Residential Appraiser to a Certified General Appraiser?

Question 2: I am pursuing a Certified General credential in my state. I have already satisfied the college education (via the in-lieu of option) and the 300 hours of qualifying education requirements under the current 2008 Real Property Appraiser Qualification Criteria. I expect to complete (pass) the National Uniform Certification Exam next year. At my current pace of work, it will take until late 2014 to finish my experience. If I submit my application to my state at that time, will my state have adequate time to process my application?

Continuing Education

Question 1: I am a certified appraiser and my certification does not need to be renewed until 2013. I have not yet taken the 2012-13 7-Hour National USPAP Update Course. Does this mean that my credential is invalid until I complete the course?

Question 2: My appraiser license renewal date is September 3, 2012. Is continuing education I completed in February 2010 too old? Where can I find the timeframe during which my continuing education must be completed?

Question 3: Does the AQB require successful completion of a final exam in order to receive continuing education credit for an online appraisal course?

2015 REAL PROPERTY APPRAISER QUALIFICATION CRITERIA-RELATED ISSUES

Supervisory Appraiser/Trainee Appraiser Education

Question 1: I am currently a credentialed Trainee Appraiser. Am I required to take a Supervisory Appraiser and Trainee Appraiser course prior to January 1, 2015, in order to remain a Trainee Appraiser?

Question 2: I am currently a supervisory Appraiser of a Trainee Appraiser. Am I required to take a Supervisory Appraiser and
Trainee Appraiser course prior to January 1, 2015, in order to continue to supervise Trainee Appraisers?

Supervisory Appraiser Eligibility

Question 1: I am a state-certified appraiser who is also a Supervisory Appraiser. My appraiser credential has been suspended. Is this considered a sanction that restricts the Supervisory Appraiser’s "legal eligibility to engage in appraisal practice?"

Question 2: I am a state-certified appraiser who is also a Supervisory Appraiser. My appraiser credential has been placed on "probation" by the state which limits the types of assignments I am allowed to appraise. Is this considered a sanction that restricts the Supervisory Appraiser’s "legal eligibility to engage in appraisal practice?"

Question 3: I am a state-certified appraiser who is also a Supervisory Appraiser. My state appraiser regulatory agency has levied a fine against me and required me to take an additional course. Is this considered a sanction that restricts the "legal eligibility to engage in appraisal practice?"

Question 4: Is a Supervisory appraiser’s eligibility to supervise Trainee Appraisers only evaluated when they initially become a Supervisory Appraiser, or is the Supervisory Appraiser’s eligibility evaluated on an ongoing basis?

Examination

Question: Under the 2015 Real Property Appraiser Qualification Criteria, I understand that all education and experience must be completed and approved prior to taking the National Uniform Licensing and Certification Examination. Once I pass the examination, within what time period must I submit the application for my credential?

The AQB Q&A is posted on The Appraisal Foundation website (www.appraisalfoundation.org)

Know Your Limitations

Statute of limitations may determine an appraiser’s liability

AN EPIDEMIC OF BUYER’S REMORSE – and sometimes banker’s remorse – relating to properties purchased or money loaned during the real estate bubble continues to fuel lawsuits alleging appraisal negligence.

A bank might claim that it innocently relied on a flawed appraisal in 2005 when it originated a 110 percent loan-to-value mortgage that soon defaulted. And if we consider the approximately 500 appraisals at the center of pending lawsuits by the Federal Deposit Insurance Corp., nearly every appraisal was delivered between 2004 and 2008. The fact is that most appraisal negligence claims continue to concern appraisals delivered years ago.

Appraisers frequently ask us if such claims can be defended based on the statute of limitations – the time period in which one party who wants to sue another has to file a lawsuit. It’s not uncommon to hear something along the lines of: "I did the appraisal in 2005, which is more than six years ago. I don’t even have the work file anymore. Will the complaint be dismissed based on the statute of limitations?"

The answer is usually not what the appraiser wants to hear.

The applicable statute of limitations for an appraisal-related claim varies depending on the type of claim (negligence, fraud or breach of contract), where the claim is filed and, in a few cases, who is making the claim. Based on these factors, the statute of limitations could be as short as one year or more than 10 years. To make things more difficult, the date on which the statute of limitations begins to run also varies from state to state and frequently depends on case law.

One thing that doesn’t vary: The record-keeping rule in the Uniform Standards of Professional Appraisal Practice has no relevance to the time period in which a borrower, lender or anyone else can file a lawsuit. The USPAP requirement that appraisers "retain the work file for a period of at least five years after preparation or at least two years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last," has no bearing on the statute of limitations for appraisal claims.

CASE IN POINT

A recent unpublished decision by the Court of Appeals of Indiana sheds light on how a typical state’s statute of limitations law will apply to an appraisal negligence claim – the most common professional liability claim alleged against appraisers.

In First Savings Bank v. Baird Realty, the bank hired the defendants in 2003 to appraise 25 single-family rental properties for loans to one borrower. After receiving the appraisal, the bank questioned the values. The bank’s vice president testified that he "did not like these appraisals from the start," and the bank’s president said that "the average person" could look at photographs of the subject properties and comparable properties and conclude that the appraisals overvalued the properties. The bank, however, made the loans anyway based on the strength of the borrower’s credit.
In January 2004, apparently after taking a closer look at the appraisals, the bank decided it would no longer use the appraisers and
advised them of that fact. In 2006, the borrower defaulted and the bank suffered substantial monetary losses. In January 2007, the
bank filed a lawsuit against the appraisers. After three years of litigation, the trial court granted summary judgment in favor of the
appraiser defendants, and ruled that the statute of limitations had expired on the bank’s negligence claim.

The bank appealed, and in considering the appeal, the Indiana Court of Appeals recognized that the state’s applicable statute of
limitations for professional negligence is two years. This period of time is at the shorter end of periods that apply in most states —
the statute of limitations in Massachusetts is three years, for example, and in Ohio it’s four years. In Kentucky, the period is as
short as one year. (Appraisal Institute members can review the statute of limitations for each state at:
www.appraisalinstitute.org/newsadvocacy/Periodicals/downloads/statutes-of-limitations.pdf.)

The Indiana Court of Appeals then addressed the question of when the statute of limitations begins to run. Here, the court
recognized that Indiana follows what is called the “discovery rule.” As the court explained, “Under Indiana’s discovery rule … the
statute of limitations begins to run when a claimant knows, or in exercise of ordinary diligence, should have known of the injury.”

The majority of states follow this discovery rule, which means that in most appraisal negligence claims, the time period in which a
plaintiff, such as a borrower or a lender, has to file a lawsuit does not begin to run until the plaintiff discovered that the appraisal was
flawed or should have discovered that harm. Lenders and borrowers often argue – successfully – that the time period for filing their
claim did not start running until years after they received the appraisal and pulled it out of a file cabinet (or electronic storage)
following a loan default.

In the Indiana case, the defendant appraisers were fortunate. The trial court found and the appellate court agreed that the bank’s
two-year period in which to file a lawsuit began to run when the bank looked closely at the appraisal and decided that problem
merited discontinuing future use of the appraisers’ services — back in January 2004. Because the bank filed its complaint in
January 2007, the lawsuit was a year too late and the negligence claim was properly dismissed. That “winning” result on the
negligence claim, however, took three years of litigation and surely cost many thousands of dollars in legal fees.

EXCEPTION TO THE RULE
Not all states follow the discovery rule, however. In Ohio, as previously mentioned, the applicable period for negligence claims is
four years, but the clock starts ticking when the negligence allegedly occurred – in most cases, that’s the date the appraisal was
performed.

The Ohio Supreme Court recently upheld the dismissal of two lawsuits filed by Flagstar Bank against appraiser defendants in the
case Flagstar Bank v. Airline Union’s Mortgage. In one of the cases at issue, Flagstar sued appraisers for three appraisals
performed during 2001 and 2002 for three loans that defaulted in 2003 and 2005. Flagstar blamed the appraisers for its financial
losses but did not file a lawsuit until 2008 – seven years after the first appraisal.

On appeal, Flagstar unsuccessfully argued that the statute of limitations should not begin to run until the full extent of the alleged
damage was discovered. However, the Ohio Supreme Court ruled in favor of the appraisers and confirmed that the period in Ohio
begins to run when the appraisal is delivered. It’s important that appraisers understand that this rule is not the norm. In fact, a
federal court sitting in Ohio recently chose not to apply the rule when an Ohio appraiser delivered an appraisal of an Ohio property
to out-of-state investors.

The statute of limitations can also be affected by the entity filing a claim. For example, under the Federal Deposit Insurance Act,
the FDIC receives an extension of any state statute of limitation relating to its potential claims as a receiver for failed banks – an
additional three years for tort claims (e.g., negligence) and an extra six years for breach of contract claims, running from the date of
the FDIC’s receivership. As a result, the FDIC will continue to be a litigation threat for years to come.

ADVICE FOR APPRAISERS
While the two cases discussed here resulted in “wins” for the defendant appraisers, statutes of limitations should not be considered
a reliable safety net, and such wins are rare in practice. Yes, this defense will certainly be argued, but appraisers are far better off
being prepared to defend their work based on quality and accuracy.

I strongly advise appraisers to retain their work files for eight or more years – remember USPAP’s minimum five-year record
keeping requirement has nothing to do with the period of the time an appraiser can be sued. A good work file is a better defense.

[Peter Christensen is LIA Administrators & Insurance Services’ general counsel. A graduate of the University of California,
Berkeley’s Boalt Hall School of Law, he has been an attorney since 1993 and maintains the blog www.appraiserlawblog.com. LIA
has been offering E&O insurance and loss prevention information to the appraisal profession nationally since 1977.]

Articles by outside experts express the author’s particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for
official policy. The articles are included because they may be of interest to the readers.