Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 342 and 343 (as introduced 3-7-07)
Senate Bill 356 (as introduced 3-15-07)
Sponsor: Senator John Pappageorge (S.B. 342 & 343)
Senator Randy Richardville (S.B. 356)
Committee: Banking and Financial Institutions

Date Completed: 3-27-07

CONTENT

Senate Bills 342, 343, and 356 would amend the Occupational Code, the Secondary Mortgage Loan Act, and the Mortgage Brokers, Lenders, and Servicers Licensing Act, respectively, to prohibit a person from inducing or coercing an appraiser in order to receive a predetermined appraisal, and prohibit an appraiser from developing and communicating an appraisal that was the result of conditions set by a client or intended user in order to receive a predetermined appraised value.

The bills are described below.

Senate Bill 342

The bill would amend Article 26 (Real Estate Appraisers) of the Occupational Code to establish a misdemeanor penalty for a licensed appraiser who, in violation of standards adopted under Article 26, developed and communicated an appraisal used as an investment or as collateral for a loan in a real estate-related financial transaction, by developing and communicating that appraisal as a result of the client's or intended user's doing either or both of the following:

-- Setting preconditions on the outcome of the appraisal as a prerequisite for being selected to develop and communicate an appraisal or for obtaining future appraisal work.
-- Representing or implying that payment for the development and communication of the appraisal was predicated upon attaining a desired minimum appraised value.

A licensee who violated this prohibition would be guilty of a misdemeanor punishable by a maximum fine of $5,000 or imprisonment for up to three years, or both.

Senate Bill 343

The Secondary Mortgage Loan Act makes it a misdemeanor, punishable by a maximum fine of $5,000 or imprisonment for up to three years, or both, for a person, association, nonprofit corporation, common law trust, joint stock company, limited liability company, or any other group of individuals, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or representative of the person or entity willfully or intentionally to engage in the business of making secondary mortgage loans without a license.

Under the bill, this penalty also would apply to a person who willfully or intentionally coerced or induced a real estate appraiser to inflate the value of real property used as collateral for a secondary mortgage loan by doing either of the following:

-- Representing or implying that a real estate appraiser would not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agreed in advance to a value, range of values, or minimum value for the real property.
-- Representing or implying that a real estate appraiser would not be paid for an appraisal unless the appraiser agreed in advance to a value, range of values, or minimum value for the real property.

These provisions would not prohibit a broker or lender from communicating a price or value concerning real property used as collateral for a secondary mortgage loan to the real estate appraiser.

Senate Bill 356

The Mortgage Brokers, Lenders, and Servicers Licensing Act makes it a misdemeanor, punishable by a maximum fine of $5,000 or imprisonment for up to three years, or both, for a person, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or their representative acting on the authority of that person, to commit certain violations willfully or intentionally.

Under the bill, this penalty also would apply to a person who willfully or intentionally coerced or induced a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan by doing either of the following:

-- Representing or implying that a real estate appraiser would not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agreed in advance to a value, range of values, or minimum value for the real property.
-- Representing or implying that a real estate appraiser would not be paid for an appraisal unless the appraiser agreed in advance to a value, range of values, or minimum value for the real property.

These provisions would not prohibit a mortgage broker or lender from communicating a price or value concerning real property used as collateral for a mortgage loan to the real estate appraiser.

MCL 339.2635 (S.B. 342)
493.77 (S.B. 343)
445.1679 (S.B. 356)

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. If a misdemeanant's sentence were more than 12 months, the State would incur the cost of incarceration in a State facility at an average annual cost of $31,000. Additional penal fine revenue would benefit public libraries.

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