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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/13
 SPONSOR Griego LAST UPDATED 02/06/13 HB _____
 SHORT TITLE Real Estate Appraiser Licenses and Brokers SB 205a/SCORC
 ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

No Response Received From
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Senate Corporations and Transportation Committee Amendments to Senate Bill 205

1. On pages 3 and 4, strike Subsection F in its entirety and insert in lieu thereof:

"F. The requirement of registration, licensing or certification shall not apply to a qualifying or associate broker as defined under the provisions of Chapter 61, Article 29 NMSA 1978 who gives an opinion of the price of real estate for the purpose of marketing, selling, purchasing, leasing or exchanging such real estate or any interest therein or for the purposes of providing a financial institution with a collateral assessment of any real estate in which the financial institution has an existing or potential security interest. The opinion of the price shall not be referred to or construed as an appraisal or appraisal report and shall not be used as the primary basis to determine the value of real estate for the purpose of loan origination.".,

This provides more detail regarding a real estate person's responsibilities related to offering an opinion on the value of a property.

Synopsis of Bill

Senate Bill 205 makes the following change to language in 60-30-10 NMSA 1978 regarding real estate appraisers.

F. The requirement of registration, licensing or certification shall not apply to a real estate broker or salesperson who, in the ordinary course of business, gives an opinion of the price [~~or value~~] of real estate for the purpose of securing a listing, marketing of real property, affecting a sale, lease or exchange, conducting market analyses or rendering specialized services, and as authorized by Title 11 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.); provided, however, that this opinion of the price [~~or value~~] shall not be referred to or construed as an appraisal or appraisal report [~~and no compensation, fee or other consideration is expected or charged for such opinion, other than the real estate brokerage commission or fee for services rendered in connection with the identified real estate or real property~~].

This seems to have the effect that a real estate broker may charge for an opinion of a potential listing's value as long as the opinion is not referred to as an appraisal or appraisal report.

FISCAL IMPLICATIONS

No fiscal issues were identified.

SIGNIFICANT ISSUES

RLD warns that Title XI of FIRREA, the Dodd-Frank Act, and the subsequent appraisal regulatory structure, were adopted to protect the safety and soundness of our financial institutions and promote public trust. These twin goals require, at a minimum, that the professionals providing valuation services be independent, objective and impartial and have the education and experience necessary to perform valuation services competently. The New Mexico Appraiser's Act details the specific education and experience requirements, as well as the ethical requirements, for persons acting as an appraiser.

Licensure for brokers and salespersons does not require the real estate practitioner to have the training, education, and experience necessary to provide credible price estimates outside of their normal course of business—that is, for the purpose of securing a listing.

The scope of practice, of opinion of value, or estimation of market value fall under the justification of the appraiser act, this bill as written could create unlicensed activity with potential to mislead the public and destabilize real estate values.

If a complaint is filed under this legislation, no jurisdiction is defined.

This legislation conflicts with current language in SB278 and Real Estate Appraiser Act

This legislation will give exposure to Brokers and there could be a need for errors and omissions insurance to protect the public.

MW/svb:bm