

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 188 (Delegate Boutin, *et al.*)
Economic Matters

Real Estate Appraisals - Prohibition on Making Payment Dependent on Finding of the Appraisal

This bill prohibits a mortgage lender, in a contract for an appraisal of real property, from making payment of a certified real estate appraiser dependent on a factual finding of the appraisal. The bill provides that if a real estate appraiser sues for payment alleging a violation of the bill and a court finds in the appraiser's favor, the court must award: (1) three times the agreed contract price; (2) court costs; and (3) attorneys' fees.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Contracts for real estate appraisals are governed by the common law of contracts. No provision prohibits a mortgage lender from making payment of a certified real estate appraiser dependent on a factual finding. However, the State Commission of Real Estate Appraisers may reprimand a licensee or certificate holder, suspend or revoke a license or certificate, or impose a fine of up to \$5,000 if a real estate appraiser commits an act or makes an omission in providing real estate appraisal services that is an act of dishonesty, fraud, or misrepresentation if the appraiser intends to: (a) benefit substantially the appraiser or another person; or (b) injure substantially another person.

Background: Generally, damages for breach of a contract for the payment of money are the amount due under the contract plus interest at the legal rate. Triple damages, court costs, and attorneys' fees are not ordinarily available remedies for breach of contract. At common law, a contract that violates a law or is against public policy is void.

Small Business Effect: To the extent mortgage lenders make payment of certified real estate appraisers dependent on factual findings, small real estate appraisal businesses that sue to receive payment for their services will receive triple damages, court costs, and attorneys' fees. Fees can range from \$200 - \$500 for a residential appraisal to several thousand dollars for commercial property.

Additional Information

Prior Introductions: None.

Cross File: SB 291 (Senator Dorman) – Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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ncs/jr

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