

## OFFICE OF POLICY AND LEGAL ANALYSIS

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To: Committee on Innovation, Development, Economic Advancement and Commerce

From: Samuel Senft, Legislative Analyst

### **LD 239 “An Act To Improve the Transparency of Real Estate Appraisals” (Hepler)**

#### **SUMMARY**

This bill creates within the Department of the Attorney General the Office of the Advocate for Real Estate Appraisal, the purpose of which is to assist members of the public in understanding their rights regarding real estate appraisals. The office is administered by the Advocate for Real Estate Appraisal, who is appointed by the Attorney General and who must be a licensed Maine real estate appraiser. The duties of the advocate include preparing and making available on a publicly accessible website interpretive and educational materials and programs concerning the real estate appraisal process and options available to consumers to dispute real estate appraisals and to submit complaints regarding licensed appraisers; providing individual guidance to members of the public to help them understand their rights in disputing real estate appraisals and submitting complaints regarding licensed appraisers; receiving and reviewing inquiries regarding real estate appraisals and determining whether the appraisals were completed in accordance with the Uniform Standards of Professional Appraisal Practice; and responding with nonbinding written findings and recommendations and information regarding the consumer's options. The bill requires the advocate to submit a report not later than January 15th of each year to the joint standing committee of the Legislature having jurisdiction over consumer affairs. The report must include the total number of inquiries received in the previous calendar year; a summary of outcomes of the inquiries received; and recommendations for future legislation, if any.

The bill also amends the licensing laws for real estate appraisers to require the Board of Real Estate Appraisers to establish by rule a process for receiving and reviewing complaints regarding licensees. It requires the board to include on its publicly accessible website a description of consumer rights in the real estate appraisal process and a step-by-step process for the filing of complaints, with links to relevant forms. It requires the board to include on its publicly accessible website searchable information regarding any disciplinary actions, including letters of guidance, taken or issued against licensed appraisers. It requires the board to submit a report not later than January 15th of each year to the joint standing committee of the Legislature having jurisdiction over matters related to licensing of real estate appraisers. The report must include the total number of complaints received in the previous calendar year; a summary of outcomes of the complaints received; and recommendations for future legislation, if any

#### **TESTIMONY**

##### **Proponents:**

- Real estate appraisals play an important role in consumer financial decisions, especially those involving refinancing.
- Customers often confused and lacking a feeling of control in the process
- Bill is aimed at helping consumers understand the process and their associated rights.
- Maine does have a Board of Real Estate Appraisers that handles licensing of appraisers.
- When a dispute surfaces, The Office of Professional and Occupational Regulation ("OPOR") Complaint Unit responds. Real Estate Commission will hear complaint.

- This proposed legislation would create an Advocate for Real Estate Appraisal within the Office of the Maine Attorney General to act as ombudsman.
- Appraisers have a lot of power. They have the advantage of both being the final say in value and nonculpable for their decision as they only offer their opinion
- Consumers have few rights but there should be accessible, reasonable and understandable. The Maine Appraiser Complaint Process does not meet those standards. It is very confusing to navigate.
- The Board of Real Estate Appraisers should develop a step-by-step complaint process that indicates the kind of information that should or should not be included in the complaint.
- The Complaint Process should be required to review and address factual error.
- The Board of Appraisers should create transparency in number of complaints and disposition of complaints.
- Letters of Guidance which are not confidential- but impossible for the public to access- - should be considered a level of Disciplinary action and listed with the Licensee information
- OPEGA should review the Board

**Opponents:**

- Seems like this bill is duplicating some Board work.
- If additional oversight is needed, couldn't the Board do it?
- Concern that the creation of the Advocate for Real Estate Appraisal will embolden disgruntled recipients of real estate appraisals to file unwarranted claims against appraisers who do not provide a "satisfactory" appraisal.
- The proposed creation of the Advocate for Real Estate Appraisal will create yet another level of bureaucracy which is unnecessary given the existing Board of Real Estate Appraisers, who could with additional resources, administer the proposed regulations of the Advocate for Real Estate Appraisal.
- This bill appears to be related to an unhappy consumer.
- Purpose of appraisal is to protect financial institution to ensure property value covers loan in event of default.
- By definition, a real estate appraiser is required to be independent, impartial, and objective.
- The creation of the Office of the Advocate for Real Estate Appraisal within the Attorney General's Office could result in inappropriate pressure being put on an appraiser to change the reported value to meet a consumer's needs, especially since the Office of the Advocate is located within an agency with significant civil and criminal prosecutorial powers.
- The USPAP Ethics Rule prohibits an appraiser from disclosing assignment results to anyone other than their client, parties specifically authorized by their client, state appraiser regulatory agencies, and professional peer review committees. An appraiser would be prohibited from communicating with the Advocate regarding any appraisal that was the subject of a complaint to that Office.
- Currently the Board has an AAG assigned to handle disciplinary cases. If necessary, the Assistant AG has the power to refer a case to the Consumer Protection Division within the Office of the Attorney General for further review and potential prosecution
- Financial institutions and appraisal management companies are already required to review appraisals to ensure that they have been prepared appropriately and in accordance with USPAP

**Neither For Nor Against**

- DPFAR does not take a position on the bill.
- The Board of Real Estate Appraisers licenses both individual appraisers as well as appraisal management companies, or as they are commonly called, AMCs.
- The regulations in this areas are reflective of federal requirements - Uniform Standards of Professional Appraisal Practice, or USPAP.
- When compliant received board will review to see if the appraiser was consistent with the

USPAP – reviews methods, not amounts.

**POTENTIAL ISSUES:**

- The issue of confidentiality was raised; specifically, that an appraiser would not be allowed to share information with an appraiser, per the USPAP Ethics Rule. This potential conflict could likely be solved with a written release of information signed by the consumer.
- As drafted, the bill does appear to be duplicative of some of the work of the Board of Real Estate Appraisers. The Board does have a current consumer complaint process, which can be initiated online. However, this process is aimed at determining whether the licensee (the appraiser) acted within the acceptable bounds of the profession. The purpose is not to determine the adequacy of an appraisal itself.

**FISCAL IMPACT:** Not yet determined

**Links:**

- [LD 239](#)
- [Maine Board of Real Estate Appraisers](#)
- [Board complaint procedures](#)
- [Uniform Standards of Professional Appraisal Practice](#)