
SENATE BILL No. 555

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-23.5; IC 25-34.1-11.

Synopsis: Appraisal management companies. Amends the definition of "mortgage loan" in the statute concerning real estate appraisals to specify that the term does not include a land contract. Provides that in the case of a real estate transaction that involves a residential mortgage loan, a person may not engage in any act or practice that violates the appraisal independence standards set forth in the federal Truth in Lending Act. Provides that in a real estate transaction that involves the purchase of a consumer's principal dwelling, a broker price opinion may not be used as the primary basis to determine the value of any property for the purpose of originating a residential mortgage loan secured by the property. Provides that an appraisal management company that is a subsidiary of a financial institution regulated by a federal financial institution regulatory agency is not required to obtain a certificate of registration from the real estate appraiser licensure and certification board in order to perform appraisal management services in Indiana. Provides that an appraisal management company that provides appraisal management services in connection with a real estate transaction that involves a residential mortgage loan may not have a direct or indirect interest in the property or transaction for which the appraisal management services are provided. Specifies that an appraisal management company may hire a licensed real estate broker to perform an appraisal only if the transaction that is the subject of the appraisal is not a federally related transaction subject to the federal Financial Institutions Reform, Recovery, and Enforcement Act. Provides that an individual who performs an appraisal review must be a licensed or certified appraiser. (Current law allows: (1) a licensed or certified appraiser; or (2) a licensed real estate broker; to perform an appraisal review.) Makes a technical change.

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Effective: Upon passage.

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January 20, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.



First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 555



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-5-23.5-4, AS AMENDED BY P.L.35-2010,
- 2 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 4. (a) As used in this chapter, "mortgage loan"
- 4 means a loan in which a mortgage ~~deed of trust~~, (or ~~land contract~~
- 5 **another equivalent consensual security interest**) that constitutes a
- 6 lien is created or retained against an interest in real property in Indiana.
- 7 (b) The term includes the following:
- 8 (1) A home loan subject to IC 24-9.
- 9 (2) A loan described in IC 24-9-1-1, to the extent allowed under
- 10 federal law.
- 11 (3) A first lien mortgage transaction (as defined in
- 12 IC 24-4.4-1-301) subject to IC 24-4.4.
- 13 (4) A consumer credit sale subject to IC 24-4.5-2 in which a
- 14 mortgage ~~deed of trust~~, (or ~~land contract~~ **another equivalent**
- 15 **consensual security interest**) that constitutes a lien is created or
- 16 retained against an interest in real property in Indiana.
- 17 (5) A consumer credit loan subject to IC 24-4.5-3 in which a



1 mortgage deed of trust, (or land contract **another equivalent**
 2 **consensual security interest**) that constitutes a lien is created or
 3 retained against an interest in real property in Indiana.
 4 (6) A loan in which a mortgage deed of trust, (or land contract
 5 **another equivalent consensual security interest**) that
 6 constitutes a lien is created or retained against land:
 7 (A) that is located in Indiana;
 8 (B) upon which there is a dwelling that is not or will not be
 9 used by the borrower primarily for personal, family, or
 10 household purposes; and
 11 (C) that is classified as residential for property tax purposes.

12 The term includes a loan that is secured by land in Indiana upon
 13 which there is a dwelling that is purchased by or through the
 14 borrower for investment or other business purposes.

15 SECTION 2. IC 24-5-23.5-7, AS ADDED BY P.L.52-2009,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 7. A person shall not:

18 (1) corrupt or improperly influence, or attempt to corrupt or
 19 improperly influence:

20 (1) (A) the independent judgment of a real estate appraiser
 21 with respect to the value of the real estate that is the subject of
 22 a real estate transaction; or

23 (2) (B) the development, reporting, result, or review of an
 24 appraisal prepared in connection with a real estate transaction;
 25 through bribery, coercion, extortion, intimidation, collusion, or
 26 any other manner; or

27 (2) **in the case of a real estate transaction that involves the**
 28 **making, refinancing, or consolidation of a mortgage loan**
 29 **secured by the principal dwelling of the debtor, engage in any**
 30 **act or practice that violates appraisal independence as**
 31 **described in Section 129E of the federal Truth in Lending Act**
 32 **(15 U.S.C. 1639e) and in any regulations prescribed under**
 33 **that statute.**

34 SECTION 3. IC 24-5-23.5-7.5 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section,
 37 "broker price opinion" has the meaning set forth in 12 U.S.C.
 38 3355(b).

39 (b) In a real estate transaction that involves the purchase of a
 40 consumer's principal dwelling, a broker price opinion may not be
 41 used as the primary basis to determine the value of any property
 42 for the purpose of originating a residential mortgage loan secured

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by the property.

SECTION 4. IC 25-34.1-11-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. As used in this chapter, "federally related transaction" has the meaning set forth in 12 U.S.C. 3350(4).**

SECTION 5. IC 25-34.1-11-7, AS ADDED BY P.L.77-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. "USPAP" refers to the Uniform Standards of Professional Appraisal Practice, as published by the Appraisal Standards Board of the Appraisal Foundation, under the authority of Title XI of the federal Financial Institutions Reform, ~~Recover~~, **Recovery**, and Enforcement Act (12 U.S.C. 3331-3351).

SECTION 6. IC 25-34.1-11-8, AS ADDED BY P.L.77-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a) This section does not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency (as defined in 12 U.S.C. 3350(6)).**

(b) An appraisal management company may not perform appraisal management services **in Indiana** unless the appraisal management company has obtained a certificate of registration from the board under this chapter.

SECTION 7. IC 25-34.1-11-11, AS ADDED BY P.L.77-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A person may not own an interest in an appraisal management company if the person has had the person's license or certificate to act as a real estate appraiser in Indiana or any other state revoked and the license or certificate has not been reinstated.

(b) An appraisal management company may only hire an independent contractor to perform an appraisal who:

(1) holds:

(A) a license or certificate under IC 25-34.1-3-8; or

(B) a license as a real estate broker under IC 25-34.1, **except as provided in IC 25-34.1-3-8(i)(1) if the appraisal is to be performed in connection with a federally related transaction, and subject to IC 24-5-23.5-7.5 if the appraisal is to be performed in connection with a real estate transaction that involves the purchase of a consumer's principal dwelling;** and

(2) is in good standing.

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1 (c) An appraisal management company ~~may~~ **shall** not ~~corrupt or~~
 2 ~~improperly influence a real estate appraiser engage in any act or~~
 3 ~~practice~~ in violation of IC 24-5-23.5-7.

4 (d) **An appraisal management company that provides appraisal**
 5 **management services in connection with a real estate transaction**
 6 **described in IC 24-5-23.5-7(2) may not have a direct or indirect**
 7 **interest, financial or otherwise, in the property or transaction for**
 8 **which the appraisal management services are provided.**

9 SECTION 8. IC 25-34.1-11-12, AS ADDED BY P.L.77-2010,
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: Sec. 12. (a) As used in this section, "appraisal
 12 review" means the USPAP Standard 3 process of developing and
 13 communicating an opinion about the quality of an independent real
 14 estate appraiser's work that is performed as part of an appraisal
 15 assignment made by an appraisal management company. However, the
 16 term does not include:

17 (1) an examination of an appraisal solely for grammatical errors,
 18 typographical errors, or similar errors; or
 19 (2) a quality control examination for completeness.

20 (b) An individual who performs an appraisal review must hold a
 21 license or certificate under IC 25-34.1-3-8. ~~or a license as a real estate~~
 22 ~~broker under IC 25-34.1~~

23 SECTION 8. **An emergency is declared for this act.**

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