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PERMIT REAL ESTATE GAME PROMOTIONS



House  
Legislative  
Analysis  
Section

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Senate Bill 958 as passed by the Senate  
First Analysis (6-11-90)

Sponsor: Sen. Norman D. Shinkle  
Senate Committee: Regulatory Affairs  
House Committee: State Affairs

**THE APPARENT PROBLEM:**

The real estate business has traditionally been held to a different standard than other businesses concerning sales promotions. Currently, the Occupational Code prohibits these businesses from using inducements such as lotteries, games, prizes, or drawings to sell or promote the sale of real estate. The prohibition was designed to eliminate unfair competition between real estate companies. Larger real estate companies, for example, could offer expensive prizes for attendance at open houses, a practice which many firms could not afford, and which many felt was unprofessional. Some real estate firms now maintain that the type of sales promotion commonly held at trade shows, in which consumers are invited to leave their business cards in a bowl and in which the card drawn wins a prize, should be permitted. The cards would be used to compile a mailing list. Since the consumer wouldn't have to pay to enter the drawing, it could not be considered a lottery and would not be in violation of the Penal Code.

**THE CONTENT OF THE BILL:**

Currently, the Occupational Code prohibits real estate persons from using a lottery, contest, game, prize, or drawing to sell, or promote the sale, of real estate. The bill would amend the code to permit real estate brokers or salespersons to use a game promotion for any purpose, as long as the promotion conformed to the restrictions on game promotions contained in the Penal Code, and as long as it did not involve the direct promotion of a specific piece of real estate. (The Penal Code defines a game promotion as one in which the elements of chance and prize are present, but in which no compensation is made for the prize.)

MCL 339.2511

**FISCAL IMPLICATIONS:**

According to the Department of Licensing and Regulation, the bill would have no fiscal implications for the state. (6-7-90)

**ARGUMENTS:**

**For:**

The bill would enable real estate companies to make use, among other things, of a practice commonly used by other types of businesses. While other businesses are permitted to use the methods traditionally employed to attract customers at trade shows — for example, the holding of drawings for prizes — a real estate broker may not. Trade shows, especially building trade shows, attract exactly the type of customer real estate companies would like to add to their mailing lists.

**Against:**

As written, the bill would make it legal for high pressure sales scams to continue. The real estate field is already flooded with companies who offer large prizes or "all expenses paid vacations" to promote the sale of timeshares or condominiums. Prospective buyers are assured that they "are already winners," and all they have to do is "show up to claim the prize." Gullible consumers who do show up are then subjected to high pressure sales tactics and often make a purchase commitment they later regret. (Such companies, if reported to the attorney general's office, usually file an assurance of discontinuance, and move on to another sales scheme). The bill should be amended to specify that a game promotion could not be used to directly promote any real estate, rather than a specific piece of real estate.

**POSITIONS:**

The Michigan Association of Realtors has no position on the bill. (6-8-90)

The Department of Licensing and Regulation has no position on the bill. (6-7-90)

The Michigan Consumers Council has no position on the bill. (6-7-90)

S.B. 958 (6-11-90)