



**House
Legislative
Analysis
Section**

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AMEND ANTI-REDLINING LAW

**House Bill 5116 as passed by the House
Second Analysis (1-8-91)**

**Sponsor: Rep. Raymond M. Murphy
Committee: Corporations and Finance**

THE APPARENT PROBLEM:

Public Act 135 of 1977 prohibits mortgage lenders from varying loan terms or conditions based on the racial or ethnic characteristics or trends in the neighborhood in which the real estate in question is located. The basic "watchdog" for the act is the local mortgage review board, a voluntary board formed to review complaints from rejected loan applicants and to attempt to place loans for them. Enforcement authority is vested in the state banking commissioner, who may investigate alleged violations and impose fines. Injured parties may also seek injunctive relief and civil damages.

This "anti-redlining" law has not been amended since its enactment, and is in need of a number of a number of amendments to bring it up to date with current terminology and practices, and to restore the banking commissioner's authority to establish a mandatory review board when a voluntary board was not functioning satisfactorily and the number of complaints suggested local problems with compliance with the act. That authority lapsed in 1983 under a expiration date specified in the act. In a related matter, while at the time of the statute's enactment banks generally used in-house appraisers, the tendency now is to use independent contract appraisers, with the result that there is now a need to include appraisers in its provisions. Various amendments have been proposed to "clean up" the act without making major changes in its basic direction.

THE CONTENT OF THE BILL:

The bill would amend Public Act 135 of 1977 to:

- prohibit real estate appraisers from varying their procedures for any of the various reasons prohibited for banks, such as racial make-up of the neighborhood or age of the house.
- require a lender or appraiser to provide without charge a copy of the appraisal upon the request of the applicant, if the lender or appraiser collected a fee for the appraisal. A lender must at present provide a copy of the appraisal to an applicant upon request and free of charge under certain circumstances, such as when the appraisal was among the reasons the loan application was rejected. The bill would require that when a loan application was denied, a lender would have to provide the applicant with the original appraisal free of charge. A lender or appraiser who failed to provide a copy of an appraisal as required by the act could be required to pay to the applicant \$200 or actual damages, whichever was greater.
- restore the banking commissioner's authority to establish a mandatory review board.
- base various reporting requirements on a calendar year, rather than the financial institution's fiscal year.
- apply to "depository" institutions with assets of less than \$10 million an exemption from disclosure that now applies to "credit granting" institutions. The bill also would provide a deadline for reports from institutions that once were exempt but later became subject to the disclosure provisions. (Note: the deadline provision refers to "credit granting" institutions,

when consistency suggests that it should refer to "depository" institutions.)

- throughout the act, replace the term "standard metropolitan statistical area" with "metropolitan statistical area or primary metropolitan statistical area" (these terms figure in the act's definition of "neighborhood," in the reporting requirements, and in the commissioner's authority to establish review boards).

MCL 445.1601 et al.

FISCAL IMPLICATIONS:

The Financial Institutions Bureau reports that the bill would have no fiscal implications. (1-8-91)

ARGUMENTS:

For:

The bill proposes various amendments reflecting the experience and developments of the past decade. With lenders' increased reliance on outside appraisers has come a need to apply the act to appraisers in order to preserve its effect; the bill would do so. The commissioner's power to establish a mandatory review board can induce voluntary boards to be more effective in addressing concerns, thus increasing the effectiveness of the act; the bill would restore this authority, which lapsed in 1983. The basic thrust of the act is to prevent discrimination in home mortgage loans; consistent with this and federal law, the bill would exempt business loan activity from the act's disclosure requirements. These changes, together with amendments updating terms, would "clean up" the act without making major changes. While some may criticize the bill for missing an opportunity for more sweeping reform, such changes would be outside the proper scope of this bill.

Against:

To require appraisals to be made available to loan applicants in the manner the bill proposes would be unfair to lenders and misleading to applicants. An appraisal is part of a lender's work product; a lender should not have provide it without substantial reasons. Moreover, an appraisal evaluates property for its value of collateral, which is not necessarily its market value. However, potential homebuyers tend to equate the two, perceiving the appraisal to be reflective of market value. Purchase negotiations can break down when the potential purchaser expects the sales price to match the appraisal amount. Even when the sale is closed, a purchaser might insure the property for its appraised value rather than its replacement cost. An appraisal is a technical document not suitable for disclosure; if appraisal information must be disclosed, say some lenders, it would be better to limit the disclosure to the amount of the appraisal.

Response: If an applicant pays for an appraisal or is denied a loan because of it, simple fairness demands that he or she be

able to receive it. Certainly one is entitled to what one has paid for. Further, it is contradictory to argue that customers should be protected from being misled by the disclosure of appraised value while simultaneously arguing that it would be all right to disclose appraisal amounts as long as the document or a copy of it did not have to be provided.

Against:

Some may argue that the bill could do more to address continuing problems of racial bias in mortgage lending. The bill ignores recent reports of experience in other states, where lenders were found to discourage some people from applying for loans; such practices are not reflected in data on loan denials.

POSITIONS:

The Financial Institutions Bureau supports the bill. (1-8-91)

The Michigan Bankers Association supports the bill. (1-8-91)

The Michigan Credit Union League does not oppose the bill. (1-7-91)

The Michigan League of Savings Institutions opposes the requirement to provide a copy of the appraisal, but does not oppose the rest of the bill. (1-7-91)