

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Analysis of a Proposal to Expand the Regulation of Real Estate Appraisers and Appraisals

Summary

The primary work of a real estate appraiser is to estimate accurately and impartially the value of particular pieces of real property, including both the land and any improvements such as a house. We analyzed the need to expand Hawaii's existing regulation of real estate appraisers and appraisals. We concluded that expanded regulation is not necessary but would foster consistency in regulation.

Under Chapter 466K, Hawaii Revised Statutes, and related rules, real estate appraisals used in connection with federally related transactions (such as loans by federally regulated financial institutions) generally must be performed in accordance with the national Uniform Standards of Professional Appraisal Practice (commonly referred to as USPAP) by persons licensed or certified as real estate appraisers by the Department of Commerce and Consumer Affairs. The existing regulatory program in the department was enacted to comply with federal banking law that resulted from many cases of abuse nationally in which substandard or fraudulent appraisals performed without sufficient independence contributed to billions of dollars in losses and failures of lending institutions.

As requested in House Concurrent Resolution No. 165 of the 1997 Regular Session, we studied the need to expand Hawaii's regulation to also include real estate appraisers and appraisals involved in non-federally related transactions as proposed in House Bill No. 566 of the 1997 session.

We found that expanding regulation to include non-federally related transactions is not necessary under federal law or applicable sunrise criteria from Section 26H-2, HRS, of the Hawaii Regulatory Licensing Reform Act. In Hawaii, negotiations to establish property values for lease-rent negotiations or lease-to-fee conversions—which tend not to be federally related transactions—have been marked by controversy centered on the appraised values. Proponents of expanded regulation claim it would reduce wide variations among valuations. However, we could not identify a clear harm to consumers that (1) resulted from a lack of skill by appraisers and (2) would be cured by requiring mandatory licensing and use of the Uniform Standards. The standards, issued by the Appraisal Standards Board of The Appraisal Foundation, are intended to reflect the current standards of the appraisal profession. The standards specify procedures for performing and communicating an appraisal. But there appears to be ample room in the standards and their application to result in very different valuations among appraisers.



However, we also found that expanded regulation would have the advantage of establishing a common baseline for conducting and reporting appraisals, which could reduce some of the confusion and controversy about the appraisal process and have other benefits. Many states (22) cover both federally and non-federally related transactions.

The costs of expanded regulation are uncertain. Examples of costs include the costs of newly regulated appraisers preparing for licensure, and possible increases in charges for performing appraisals for non-federally related transactions. The Legislature needs to consider the costs and benefits of expanded regulation, as well as legal issues in the areas of exemptions, retroactivity, and arbitration. For example, good arguments can be made for excluding tax-assessment appraisers from regulation, but exempting them could undermine the goal of establishing a common baseline for all appraisals.

Recommendations and Response

Primarily for consistency in regulation, we recommend that the Legislature strongly consider passing House Bill No. 566 requiring appraisals in both federally and non-federally related real estate transactions to be performed by state-licensed or state-certified appraisers following the Uniform Standards of Professional Appraisal Practice. In weighing whether to expand regulation of real estate appraisers and appraisals in this manner—and whether to grant exemptions—the Legislature may wish to consider the costs, benefits, and legal issues that are summarized in our report.

The Department of Commerce and Consumer Affairs elected not to submit a response to a draft of this report.

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