

South Carolina General Assembly
117th Session, 2007-2008

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S. 1018

STATUS INFORMATION

General Bill

Sponsors: Senators Martin, Setzler, Ceips, Hawkins, Land, O'Dell, Knotts, Scott, Short, Alexander, Sheheen and Matthews

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Companion/Similar bill(s): 4596

Introduced in the Senate on January 23, 2008

Currently residing in the Senate Committee on **Judiciary**

Summary: Unfair trade practice

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/23/2008	Senate	Introduced and read first time SJ-10
1/23/2008	Senate	Referred to Committee on Judiciary SJ-10
1/29/2008	Senate	Referred to Subcommittee: Gregory (ch), Elliott, Anderson, Ritchie, Cleary, Ceips

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VERSIONS OF THIS BILL

[1/23/2008](#)

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [39-5-43](#) SO AS TO MAKE IT AN UNFAIR TRADE PRACTICE FOR A PERSON WITH AN INTEREST IN A REAL ESTATE TRANSACTION INVOLVING AN APPRAISAL TO COMMIT ANY ACT THAT IMPAIRS THE INDEPENDENT JUDGMENT OF THE APPRAISER IN CARRYING OUT THE APPRAISAL ASSIGNMENT, TO PROVIDE DEFINITIONS, TO PROVIDE FOR A CIVIL CAUSE OF ACTION INCLUDING THE AWARD OF COURT COSTS AND ATTORNEY'S FEES, AND TO PROVIDE FOR REVOCATION OF PROFESSIONAL LICENSES OF OFFENDERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 5, Title 39 of the 1976 Code is amended by adding:

"Section [39-5-43](#). (A) For purposes of this section:

(1) 'A person with an interest in a real estate transaction or the financing of a loan secured by real estate' means, without limitation, a mortgage lender, mortgage broker, or mortgage originator; real estate broker, real estate agent, or real estate salesperson; attorney; client; appraiser; landowner; or any other person who is a party to or has a pecuniary interest in the transaction or financing.

(2) 'Blacklisting' means placing on a list of persons to be barred from employment.

(3) 'Boycott' means preventing dealings with a person as a means of coercion or intimidation.

(4) 'Bribery' means offering something of value to gain an illicit advantage.

(5) 'Coercion' means using force or intimidation to obtain compliance.

(6) 'Comp checking' or 'preliminary appraisal' means a value indication by an appraiser of a property before completing the work required to render a reliable value conclusion.

(7) 'Extortion' means extracting unjustly by misuse of authority.

(8) 'Intimidation' means forcing or deterring some action by inducing fear.

(9) 'Threat' means declaring intent to inflict some injury in retaliation for some act.

(B) It is an unlawful trade practice, pursuant to Section [39-5-20](#), for a person with an interest in a real estate transaction or the financing of a loan secured by real estate, which real estate is located in this State and which transaction or loan involves an appraisal assignment, to commit an act of blacklisting, boycott, bribery, coercion, extortion, intimidation, threat, or another act tending to result in the improper influence and impaired independent judgment of a real estate appraiser in the development, reporting, review, or result of his appraisal assignment including comp checking. These unlawful acts include, but are not limited to:

(1) withholding or reducing, or threatened withholding or reduction, of a payment of the appraisal fee based on the opinion, conclusion, or valuation of the appraisal report including comp checking;

(2) conditioning payment of the appraisal fee on the outcome of the opinion, conclusion, or valuation

of the appraisal report including comp checking; or

(3) requesting that the appraisal report including comp checking results in a predetermined opinion, conclusion, or valuation.

(C) This section does not prohibit a person from requesting that the appraiser:

(1) consider additional appropriate real estate information;

(2) provide further detail, substantiation, or explanation for the opinion, conclusion, or valuation; or

(3) correct errors in the appraisal report.

(D)(1) Each real estate property transaction or loan subject to a violation of this section is a separate offense.

(2) The remedies provided in this article are cumulative and are in addition to other remedies at law and equity.

(3) A person who is injured by a violation of this section has a right in action, other than a class action, to recover from the party charged with the violation actual damages and also a penalty in an amount determined by a court of competent jurisdiction of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each offense. A person may not bring a class action for a violation of this section. A person may not bring an action for a violation of this section more than six years after the violation occurred. This section does not bar a borrower from asserting a violation of this section in an action to collect a debt which was brought more than six years from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in the action.

(4) In an action in which it is found that a party charged with a violation has violated this section, the court shall award to the plaintiff the costs of the action and to his attorneys their reasonable fees. In determining attorney's fees, the amount of the recovery on behalf of the debtor is not controlling.

(E) In addition to other penalties, if it is found by a court of competent jurisdiction that a person charged with a violation has violated this section, the court shall give written notice to the appropriate professional licensing agency of that person, if any, and the professional license of a third and subsequent offender must be revoked. The names of those persons whose licenses are revoked pursuant to this item must be accessible by the public."

SECTION 2. This act takes effect upon approval by the Governor.

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