



ASSOCIATION OF MUNICIPAL ASSESSORS OF NEW JERSEY

Affiliated With The

**INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS
NORTHEASTERN REGIONAL ASSOCIATION OF ASSESSING OFFICERS
AND THE
NEW JERSEY STATE LEAGUE OF MUNICIPALITIES**

Website: www.amanj.org

AMANJ Position on A3718 and S2551

March 5, 2013

SYNOPSIS: Permits real estate licensees to prepare **broker price opinions** and comparative market analyses.

Background

S2551 (Van Drew) and A3718 (Diegnan) would permit real estate brokers, broker-salespersons and salespersons licensed in New Jersey to prepare a broker price opinion (BPO) or comparative market analysis outside of the real estate brokerage context. Under current law, a broker, broker-salesperson or salesperson is only permitted to provide a BPO as part of a real estate sales transaction, or for a state or federally regulated institution if the underlying transaction is a federally related transaction.

If enacted into law, S2551 would exponentially expand the purposes for which BPOs can be performed, including for litigation, tax appeals, eminent domain, estate settlement, divorce proceedings, pre-nuptial agreements, land use planning, easements, etc. Enactment of this legislation could create a breeding ground for conflicts and consumer fraud.

The AMANJ's primary concern with any expansion in the performance of BPOs beyond real estate brokerage transactions is that licensed brokers are, by definition, advocates for their clients. There is nothing to prevent a licensed broker from performing a BPO in such a way as to result in an outcome that is favorable to their client's interests. As an advocate, it would be highly inappropriate for a broker to participate in any mortgage lending transaction.

The AMANJ does not believe that BPO's should be used by non-regulated parties involved in important real estate transactions where it is vital to have an accurate and reliable real estate valuation provided by an independent and impartial third-party, without any advocacy for one party or the other. There are similar rules in the accounting profession that require the separation of various accounting functions (i.e., mergers and acquisitions) from the auditing functions to insure the independence of the valuation result.

The AMANJ strongly supports the Advisory Opinion (AO) issued by the New Jersey Real Estate Appraisers Board on November 27, 2012 regarding the provision of broker price opinions (BPOs) by licensed real estate brokers. This AO limits the provision of BPOs to real estate listing transactions, and for state or federally regulated institutions. The AO adopted by the Board is intended to protect consumers and to eliminate real estate broker conflicts and pressure which could influence real estate valuation.

Requested Amendments

Instead of what is currently contained in S2551, the AMANJ is requesting that the bill be amended to:

- 1) Reaffirm existing law that brokers may perform BPOs only within the real estate brokerage context or for state and federally regulated institutions where an appraisal is not required under federal law.
- 2) Prohibit the provision of BPOs for any mortgage loan origination purpose.
- 3) Specify that a BPO performed for ANY other purpose is an appraisal and must be performed by a licensed or certified real estate appraiser.

Thank you very much in advance for your consideration of these viewpoints and request for amendment. If you should have any questions or wish to discuss the potential consequences of this legislation further, please do not hesitate to contact me at

Respectfully Submitted,



Scott J. Holzauer, CTA, SCGREA
AMANJ President