

SUBSTITUTE FOR
HOUSE BILL NO. 5591

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 2635 (MCL 339.2635), as amended by 2008 PA 531.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2635. (1) Except as otherwise provided in subsection (2),
2 a licensee who does 1 or more of the following ~~shall be~~**IS** subject
3 to the penalties set forth in article 6:

4 (a) Violates any of the standards for the development and
5 communication of real property appraisals as provided in this
6 article or a rule promulgated ~~pursuant to~~**UNDER** this article.

7 (b) Fails or refuses without good cause to exercise reasonable
8 diligence in developing or communicating an appraisal.

9 (c) Demonstrates incompetence in developing or communicating

1 an appraisal.

2 (d) Fails to make available to the department ~~upon~~**ON** request
3 or fails to maintain books and records required under this article.

4 (e) Performs, attempts to perform, or offers to perform
5 appraisal services for which the individual is not licensed under
6 this article.

7 (f) Aids or abets another to commit a violation of this act or
8 the rules promulgated under this act.

9 (g) Uses the license of another individual or knowingly allows
10 another individual to use his or her license.

11 (h) If a limited real estate appraiser fails to disclose to
12 the client, before making an appraisal, that the licensee's
13 appraisal cannot be used in a federally related transaction.

14 (i) Develops and communicates, in violation of the standards
15 adopted under this article, an appraisal used as an investment or
16 as collateral for a loan in a real-estate-related financial
17 transaction by developing and communicating that appraisal as a
18 result of the client's or intended user's doing either or both of
19 the following:

20 (i) Setting preconditions on the outcome of the appraisal as a
21 prerequisite for being selected to develop and communicate an
22 appraisal or for obtaining future appraisal work. As used in this
23 subparagraph, "setting preconditions on the outcome of an
24 appraisal" does not include the communication of information,
25 including documents related to the property being appraised,
26 necessary to identify the valuation problem to be solved and the
27 scope of work necessary to determine credible assignment results.

1 (ii) Representing or implying that payment for the development
2 and communication of the appraisal is predicated ~~upon~~**ON** attaining
3 a desired minimum appraised value.

4 (2) ~~A person~~**AN INDIVIDUAL** licensed under this article who
5 violates subsection (1)(i) is guilty of a misdemeanor punishable by
6 a fine of not more than \$15,000.00 or imprisonment for not more
7 than 1 year, or both.

8 (3) **A COMPLAINT UNDER ARTICLE 5 THAT SEEKS A PENALTY FOR A**
9 **VIOLATION OF THIS SECTION MUST BE FILED WITHIN 18 MONTHS AFTER 1 OF**
10 **THE FOLLOWING DATES, WHICHEVER OCCURS LATER:**

11 **(A) THE DATE OF THE ALLEGED VIOLATION.**

12 **(B) IF THE ALLEGED VIOLATION OCCURS IN CONNECTION WITH THE**
13 **PERFORMANCE OF AN APPRAISAL, THE DELIVERY OF THE APPRAISAL TO THE**
14 **CLIENT.**

15 **(C) IF THE ALLEGED VIOLATION OCCURS IN CONNECTION WITH AN**
16 **APPRAISAL OR APPRAISAL REVIEW PERFORMED IN THE CAPACITY OF AN**
17 **EXPERT WITNESS, THE DELIVERY OF THE APPRAISAL OR APPRAISAL REVIEW**
18 **TO THE OPPOSING PARTY.**

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.