

HOUSE BILL No. 5439

February 1, 1990, Introduced by Reps. Murphy, Weeks, Spaniola, Stopczynski, Keith, Bennett, Rocca, Leland, Griffin, DeMars, Wallace, Stallworth, Bennane, Clack, Harrison, Saunders, Kilpatrick, Alley, Hickner, Jondahl, Hunter, Hood and Watkins and referred to the Committee on State Affairs.

A bill to amend sections 2503 and 2601 of Act No. 299 of the Public Acts of 1980, entitled

"Occupational code,"

section 2503 as amended by Act No. 174 of the Public Acts of 1987, being sections 339.2503 and 339.2601 of the Michigan Compiled Laws; and to add sections 2603, 2605, 2607, 2609, 2611, 2613, 2615, 2617, 2619, 2621, and 2623.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2503 and 2601 of Act No. 299 of the
2 Public Acts of 1980, section 2503 as amended by Act No. 174 of
3 the Public Acts of 1987, being sections 339.2503 and 339.2601 of
4 the Michigan Compiled Laws, are amended and sections 2603, 2605,
5 2607, 2609, 2611, 2613, 2615, 2617, 2619, 2621, and 2623 are
6 added to read as follows:

1 Sec. 2503. (1) This article shall not apply to an
2 individual, partnership, association, or corporation, who as
3 owner, sells or offers for sale a detached, single family dwell-
4 ing, duplex, triplex, or quadruplex, which has never been occu-
5 pied and which was built by the individual, partnership, associa-
6 tion, or corporation while licensed under article 24. This arti-
7 cle does not apply to an individual, partnership, association, or
8 corporation, who as owner or lessor or as attorney-in-fact acting
9 under a duly executed and recorded power of attorney from the
10 owner or lessor, or who has been appointed by a court, performs
11 an act as a real estate broker or real estate salesperson with
12 reference to property owned by it, unless performed as a princi-
13 pal vocation not through a licensed real estate broker.

14 (2) This article shall not include the services rendered by
15 an attorney at law as an attorney at law, nor shall it include a
16 receiver, trustee in bankruptcy, administrator, executor, a
17 person selling or appraising real estate under order of a court,
18 AN INDIVIDUAL REGISTERED UNDER ARTICLE 26, a person holding the
19 member appraisal institute (MAI) designation awarded by the
20 American institute of real estate appraisers, or any other person
21 appraising, offering to appraise, or testifying concerning value,
22 in connection with proceedings before the tax tribunal, nor a
23 trustee selling under a deed of trust. This exemption of a
24 trustee shall not apply to repeated or successive sales of real
25 estate by the trustee, unless the sale is made through a licensed
26 real estate broker. As used in this subsection, "tax tribunal"
27 means the tax tribunal created under the tax tribunal act, Act

1 No. 186 of the Public Acts of 1973, being sections 205.701 to
2 205.779 of the Michigan Compiled Laws.

3 (3) This article does not apply to a person who is regulated
4 under the mortgage brokers, lenders, and servicers licensing act
5 and who does not perform any other act requiring a license as a
6 real estate broker, associate broker, or salesperson.

7 (4) For the purposes of this article, "negotiate the mort-
8 gage of real estate" as described in section 2501, means engaging
9 in activity not regulated under the mortgage brokers, lenders,
10 and servicers licensing act.

11 Sec. 2601. ~~The following acts and parts of acts, as~~
12 ~~amended, are repealed~~ AS USED IN THIS ARTICLE:

13	Year of Act	Public Act Number	Compiled Law Number (1970)
14	+919	306	451.201 to 451.219
15	+931	+76	338.751 to 338.786
16	+937	240	338.551 to 338.576
17	+939	+22	338.209a
18	+939	205	431.101 to 431.126
19	+949	268	338.861 to 338.875
20	+955	78	338.721 to 338.740
21	+963	+26	338.1201 to 338.1219
22	+965	201	338.1401 to 338.1414
23	+965	383	338.1501 to 338.1519
24	+966	218	338.1351 to 338.1366
25	+966	265	338.1451 to 338.1466

1	+966	292	338.1031 to 338.1045
2	+968	355	338.1601 to 338.1665
3	+969	+66	338.1181 to 338.1192
4	+972	352	338.1751 to 338.1766
5	+974	25+	338.1851 to 338.1868
6	+974	30+	338.2001 to 338.2060
7	+974	36+	445.211 to 445.245
8	+976	+30	338.2101 to 338.2125

9 (A) "APPRAISAL" MEANS AN OPINION, CONCLUSION, OR ANALYSIS
10 RELATING TO THE VALUE OF REAL PROPERTY.

11 (B) "APPRAISER" MEANS A PERSON ENGAGED IN THE DEVELOPMENT
12 AND COMMUNICATION OF APPRAISALS.

13 (C) "REAL PROPERTY" MEANS AN IDENTIFIED TRACT OR PARCEL OF
14 LAND, INCLUDING IMPROVEMENTS ON THAT LAND, AS WELL AS ANY INTER-
15 ESTS, BENEFITS, OR RIGHTS INHERENT IN THE LAND.

16 (D) "RESIDENTIAL REAL PROPERTY" MEANS REAL PROPERTY USED AS
17 A RESIDENCE CONTAINING A DWELLING THAT HAS NOT MORE THAN 4 LIVING
18 UNITS.

19 (E) "STATE CERTIFIED GENERAL REAL ESTATE APPRAISER" MEANS AN
20 INDIVIDUAL WHO APPRAISES ALL TYPES OF REAL PROPERTY AND IS REGIS-
21 TERED UNDER THIS ARTICLE.

22 (F) "STATE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER"
23 MEANS AN INDIVIDUAL WHO APPRAISES RESIDENTIAL REAL PROPERTY AND
24 IS REGISTERED UNDER THIS ARTICLE.

25 (G) "UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE"
26 MEANS THOSE STANDARDS PUBLISHED BY THE APPRAISAL FOUNDATION AND
27 APPROVED BY THE APPRAISAL FOUNDATION ON JANUARY 30, 1989.

1 SEC. 2603. (1) THERE IS CREATED A BOARD OF STATE CERTIFIED
2 REAL ESTATE APPRAISERS.

3 (2) SUBJECT TO SUBSECTION (3), EACH MEMBER OF THE INITIAL
4 BOARD SHALL BE AN INDIVIDUAL WHO MEETS EITHER OR BOTH OF THE FOL-
5 LOWING CONDITIONS:

6 (A) IS CERTIFIED, REGISTERED, OR OTHERWISE APPROVED BY A
7 NATIONAL ORGANIZATION THAT BOTH CERTIFIES, REGISTERS, OR OTHER-
8 WISE APPROVES APPRAISERS OF REAL PROPERTY.

9 (B) HAS BEEN ACTIVELY ENGAGED AS AN APPRAISER, MANAGER OF AN
10 APPRAISAL FIRM OR DEPARTMENT, OR INSTRUCTOR OF APPRAISAL EDUCA-
11 TION FOR NOT LESS THAN 2 YEARS IMMEDIATELY PRECEDING HIS OR HER
12 APPOINTMENT.

13 (3) EACH MEMBER APPOINTED UNDER SUBSECTION (2) SHALL BE REG-
14 ISTERED UNDER THIS ARTICLE WITHIN 3 YEARS AFTER THE EFFECTIVE
15 DATE OF THIS ARTICLE.

16 (4) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE
17 AMENDATORY ACT THAT ADDED THIS SECTION, THE BOARD SHALL PROMUL-
18 GATE RULES SETTING MINIMUM STANDARDS FOR THE DEVELOPMENT AND COM-
19 MUNICATION OF APPRAISALS. IN DEVELOPING THESE STANDARDS, THE
20 BOARD MAY ADOPT THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL
21 PRACTICE AND ANY OTHER STANDARDS IF THE BOARD DETERMINES THAT
22 THOSE STANDARDS SERVE AS A BASIS FOR THE DEVELOPMENT AND COMMUNI-
23 CATION OF AN APPRAISAL.

24 (5) THE BOARD MAY PROMULGATE RULES FOR THE PURPOSE OF ADOPT-
25 ING ANY AMENDMENTS OR MODIFICATION OF THE STANDARDS ADOPTED BY
26 RULES PROMULGATED UNDER SUBSECTION (4).

1 SEC. 2605. (1) AN INDIVIDUAL SHALL NOT REPRESENT HIMSELF OR
2 HERSELF TO BE A STATE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER
3 UNLESS THAT INDIVIDUAL IS REGISTERED UNDER THIS ARTICLE AS A
4 STATE CERTIFIED RESIDENTIAL OR GENERAL REAL ESTATE APPRAISER.

5 (2) AN INDIVIDUAL SHALL NOT REPRESENT HIMSELF OR HERSELF TO
6 BE A STATE CERTIFIED GENERAL REAL ESTATE APPRAISER UNLESS THAT
7 INDIVIDUAL IS REGISTERED UNDER THIS ARTICLE AS A STATE CERTIFIED
8 GENERAL REAL ESTATE APPRAISER.

9 (3) THE TERMS "STATE CERTIFIED GENERAL REAL ESTATE
10 APPRAISER" AND "STATE CERTIFIED RESIDENTIAL REAL ESTATE
11 APPRAISER" SHALL REFER ONLY TO AN INDIVIDUAL REGISTERED UNDER
12 THIS ARTICLE AND SHALL NOT REFER TO OR BE USED IN CONNECTION WITH
13 THE NAME OR SIGNATURE OF A PERSON THAT IS NOT AN INDIVIDUAL REG-
14 ISTERED UNDER THIS ARTICLE.

15 (4) AN INDIVIDUAL REGISTERED UNDER THIS ARTICLE SHALL DIS-
16 CLOSE ANY LIMITATIONS ON THE TYPE OF ANALYSIS, VALUATION, OR
17 OPINION IN RELATION TO AN APPRAISAL.

18 (5) AN APPRAISAL DEVELOPED BY AN INDIVIDUAL REGISTERED UNDER
19 THIS ARTICLE SHALL CONFORM TO THE STANDARDS ESTABLISHED BY THE
20 BOARD IN SECTION 2603(4) AND (5).

21 SEC. 2607. THIS ARTICLE DOES NOT PREVENT A PERSON FROM
22 ENGAGING IN THE BUSINESS OF BEING OR FROM ACTING IN THE CAPACITY
23 OF AN APPRAISER IN THIS STATE WITHOUT BEING REGISTERED UNDER THIS
24 ARTICLE IF THE PERSON IS EITHER OF THE FOLLOWING:

25 (A) A PERSON LICENSED UNDER ARTICLE 25.

1 (B) A PERSON ACTING IN THE CAPACITY OF A REAL ESTATE BROKER
2 OR A REAL ESTATE SALESPERSON, AS THOSE TERMS ARE DEFINED IN
3 SECTION 2501, THAT IS EXEMPT FROM LICENSURE UNDER SECTION 2503.

4 SEC. 2609. THE DEPARTMENT SHALL REGISTER AS A STATE CERTI-
5 FIED RESIDENTIAL REAL ESTATE APPRAISER AN INDIVIDUAL WHO SUBMITS
6 EVIDENCE SHOWING, TO THE SATISFACTION OF THE DEPARTMENT, THAT HE
7 OR SHE MEETS ALL OF THE FOLLOWING CONDITIONS:

8 (A) COMPLETION OF NOT LESS THAN 60 CLOCK HOURS OF CLASSROOM
9 COURSES APPROVED BY THE BOARD AND RELATED TO DEVELOPING AND COM-
10 MUNICATING APPRAISALS. IN THE CASE OF AN INDIVIDUAL LICENSED
11 UNDER ARTICLE 25, THE 60 CLOCK HOURS SHALL BE IN ADDITION TO THE
12 CLOCK HOURS OF APPROVED CLASSROOM COURSES REQUIRED FOR OBTAINING
13 LICENSURE AS A REAL ESTATE SALESPERSON OR A REAL ESTATE BROKER
14 UNDER THAT ARTICLE. A BACCALAUREATE DEGREE FROM AN INSTITUTION
15 OF HIGHER EDUCATION APPROVED BY THE BOARD SHALL FULFILL THE
16 REQUIREMENT OF THIS SUBDIVISION.

17 (B) COMPLETION OF 15 CLOCK HOURS OF CLASSROOM COURSES, AS
18 APPROVED BY THE BOARD, RELATING TO STANDARDS OF PROFESSIONAL
19 PRACTICE.

20 (C) EXPERIENCE IN THE BUSINESS OF BEING AN APPRAISER, A MAN-
21 AGER OF AN APPRAISAL FIRM OR DEPARTMENT, OR AN INSTRUCTOR OF EDU-
22 CATIONAL COURSES DETERMINED BY THE BOARD TO BE RELATED TO THE
23 DEVELOPMENT OR COMMUNICATION OF APPRAISALS FOR 2 OF THE 5 YEARS
24 PRECEDING THE DATE OF APPLICATION. THE BOARD MAY REQUEST THE
25 INDIVIDUAL TO FURNISH WRITTEN REPORTS, MEMORANDA, OR OTHER DOCU-
26 MENTATION REFLECTING THE EXPERIENCE REQUIRED BY THIS
27 SUBDIVISION.

1 (D) THE PASSING OF AN EXAMINATION AS REQUIRED IN
2 SECTION 2613.

3 (E) BEING OF GOOD MORAL CHARACTER.

4 SEC. 2611. THE DEPARTMENT SHALL REGISTER AS A STATE CERTI-
5 FIED GENERAL REAL ESTATE APPRAISER AN INDIVIDUAL WHO SUBMITS EVI-
6 DENCE SATISFACTORY TO THE DEPARTMENT OF MEETING ALL OF THE FOL-
7 LOWING CONDITIONS:

8 (A) THE REQUIREMENTS OF SECTION 2609.

9 (B) COMPLETION OF 90 CLOCK HOURS OF CLASSROOM COURSES
10 APPROVED BY THE BOARD RELATING TO DEVELOPING AND COMMUNICATING
11 APPRAISALS IN ADDITION TO THE REQUIREMENTS OF SECTION 2609.

12 (C) THE PASSING OF AN EXAMINATION AS REQUIRED IN
13 SECTION 2613.

14 SEC. 2613. (1) AN INDIVIDUAL SEEKING REGISTRATION AS A
15 STATE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER OR A STATE CER-
16 TIFIED GENERAL REAL ESTATE APPRAISER SHALL FIRST SUCCESSFULLY
17 PASS A WRITTEN EXAMINATION DEVELOPED OR APPROVED BY THE BOARD AND
18 THE DEPARTMENT IN SUBJECTS INCLUDING, BUT NOT LIMITED TO, THE
19 FOLLOWING:

20 (A) TECHNICAL TERMS USED IN OR RELATED TO REAL PROPERTY
21 APPRAISALS.

22 (B) ECONOMIC CONCEPTS AND VALUATION THEORIES APPLICABLE TO
23 REAL PROPERTY.

24 (C) THE PROCESSES AND PROCEDURES USED IN CONDUCTING AN
25 APPRAISAL.

1 (D) PROBLEMS LIKELY TO BE ENCOUNTERED IN GATHERING,
2 INTERPRETING, AND PROCESSING INFORMATION IN THE DEVELOPMENT OF AN
3 APPRAISAL.

4 (E) THE STANDARDS USED FOR THE DEVELOPMENT AND COMMUNICATION
5 OF APPRAISALS.

6 (F) BASIC REAL ESTATE LAW.

7 (G) MISCONDUCT REGARDING THE APPRAISAL PROCESS.

8 (2) THE BOARD AND DEPARTMENT MAY ADOPT AN EXAMINATION PRE-
9 PARED BY A PROFESSIONAL ENTITY OR ORGANIZATION WHOSE PURPOSE
10 INCLUDES ESTABLISHING AND IMPROVING UNIFORM APPRAISAL STANDARDS,
11 DEVELOPING CRITERIA FOR CERTIFICATION AND RECERTIFICATION OF
12 APPRAISERS, DISSEMINATING QUALIFICATION CRITERIA TO GOVERNMENTAL
13 AND PRIVATE ENTITIES, AND DEVELOPING EXAMINATIONS USED IN OTHER
14 STATES IF THE DEPARTMENT AND THE BOARD DETERMINE THAT THE EXAMI-
15 NATION SERVES AS A BASIS FOR DETERMINING WHETHER AN INDIVIDUAL
16 HAS THE KNOWLEDGE AND SKILLS TO PERFORM WITH COMPETENCE.

17 SEC. 2615. THE DEPARTMENT SHALL ISSUE A REGISTRATION WITH-
18 OUT EXAMINATION TO AN INDIVIDUAL WHO, AT THE TIME OF APPLICATION,
19 IS LICENSED, REGISTERED, CERTIFIED, OR OTHERWISE REGULATED BY
20 ANOTHER STATE IF THE REQUIREMENTS OF THAT STATE, AS DETERMINED BY
21 THE BOARD AND THE DEPARTMENT, ARE SUBSTANTIALLY THE EQUIVALENT OF
22 THE REQUIREMENTS OF THIS ARTICLE.

23 SEC. 2617. A NONRESIDENT OF THIS STATE MAY BECOME REGIS-
24 TERED UNDER THIS ARTICLE BY CONFORMING WITH THIS ARTICLE. THE
25 NONRESIDENT SHALL FILE AN IRREVOCABLE CONSENT TO SERVICE OF PRO-
26 CESS WHICH CONSENT SHALL BE SIGNED BY THE REGISTRANT. A PROCESS
27 OR PLEADING SERVED UPON THE DEPARTMENT SHALL BE SUFFICIENT

1 SERVICE UPON THE REGISTRANT. A PROCESS OR PLEADING SERVED UPON
2 THE DEPARTMENT UNDER THIS SECTION SHALL BE IN DUPLICATE. THE
3 DEPARTMENT SHALL IMMEDIATELY SERVE BY REGISTERED OR CERTIFIED
4 MAIL A COPY OF THE PROCESS OR PLEADING TO THE REGISTRANT'S LAST
5 KNOWN ADDRESS AS DETERMINED BY THE RECORDS OF THE DEPARTMENT.

6 SEC. 2619. (1) AS A CONDITION OF RENEWAL OF REGISTRATION,
7 AN INDIVIDUAL REGISTERED UNDER THIS ARTICLE SHALL SUCCESSFULLY
8 COMPLETE, WITHIN THE 12 MONTHS IMMEDIATELY PRECEDING THE RENEWAL,
9 NOT LESS THAN 6 CLOCK HOURS OF CONTINUING EDUCATION APPROVED BY
10 THE BOARD RELATING TO APPRAISALS.

11 (2) A REGISTRANT MAY FULFILL THE REQUIREMENTS OF
12 SUBSECTION (1) BY PRESENTING EVIDENCE TO THE BOARD OF 1 OR BOTH
13 OF THE FOLLOWING:

14 (A) COMPLETION OF AN EDUCATIONAL PROGRAM OF STUDY DETERMINED
15 BY THE BOARD TO BE THE EQUIVALENT OF COURSES DESCRIBED IN
16 SUBSECTION (1).

17 (B) TEACHING EDUCATIONAL PROGRAMS APPROVED BY THE BOARD AND
18 THE DEPARTMENT RELATING TO THE THEORY, PRACTICES, OR TECHNIQUES
19 OF APPRAISALS.

20 (3) THE DEPARTMENT SHALL PROMULGATE RULES DEFINING THE
21 COURSE OF INSTRUCTION FOR THE TRAINING OF INDIVIDUALS REGISTERED
22 UNDER THIS ARTICLE INCLUDING, BUT NOT LIMITED TO, THE PROCEDURES
23 FOR OBTAINING APPROVAL OF CONTINUING EDUCATION INSTRUCTION EQUIV-
24 AGENCY CREDIT AND METHODS OF MONITORING COURSE ATTENDANCE. IN
25 ADOPTING RULES, THE DEPARTMENT SHALL CONSIDER PROGRAMS AND
26 COURSES OFFERED BY PROFESSIONAL ENTITIES OR ORGANIZATIONS WHOSE
27 PURPOSES INCLUDE THE ESTABLISHMENT AND IMPROVEMENT OF UNIFORM

1 APPRAISAL STANDARDS, THE DEVELOPMENT OF CRITERIA FOR
2 CERTIFICATION AND RECERTIFICATION OF INDIVIDUALS ENGAGING IN THE
3 BUSINESS OF DEVELOPING AND COMMUNICATING APPRAISALS, AND THE DIS-
4 SEMINATION OF QUALIFICATION CRITERIA TO GOVERNMENTAL AND PRIVATE
5 ENTITIES. THE DEPARTMENT MAY ALSO CONSIDER PROGRAMS OF OTHER
6 STATE AGENCIES.

7 SEC. 2621. (1) THE DEPARTMENT SHALL REGISTER AN INDIVIDUAL
8 WHOSE REGISTRATION UNDER THIS ARTICLE HAS LAPSED FOR A PERIOD OF
9 LESS THAN 3 CONTINUOUS YEARS UPON THE INDIVIDUAL'S SHOWING OF
10 PROOF, SATISFACTORY TO THE DEPARTMENT, OF COMPLETION OF THE CON-
11 TINUING EDUCATION REQUIREMENTS OF SECTION 2619(1) OR (2) FOR EACH
12 YEAR THE REGISTRATION IS LAPSED.

13 (2) THE DEPARTMENT SHALL NOT REGISTER AN INDIVIDUAL WHOSE
14 REGISTRATION HAS LAPSED FOR A PERIOD OF MORE THAN 3 CONTINUOUS
15 YEARS UNLESS THE INDIVIDUAL MEETS THE REQUIREMENTS OF
16 SECTION 2609 OR 2611.

17 (3) THE CONTINUING EDUCATION REQUIREMENTS OF SECTION 2619
18 SHALL NOT BE APPLIED TO THE REQUIREMENTS FOR INITIAL REGISTRATION
19 UNDER THIS ARTICLE. THE COURSES TAKEN UNDER THE INITIAL REGIS-
20 TRATION REQUIREMENTS SHALL NOT BE APPLIED TOWARD THE CONTINUING
21 EDUCATION REQUIREMENTS.

22 (4) THE CONTINUING EDUCATION REQUIREMENTS OF SECTION 2619 DO
23 NOT APPLY TO AN INDIVIDUAL RENEWING HIS OR HER REGISTRATION IN
24 THE YEAR IN WHICH THE ORIGINAL REGISTRATION IS ISSUED.

25 SEC. 2623. A REGISTRANT WHO DOES 1 OR MORE OF THE FOLLOWING
26 SHALL BE SUBJECT TO THE PENALTIES SET FORTH IN ARTICLE 6:

1 (A) VIOLATES ANY OF THE STANDARDS FOR THE DEVELOPMENT AND
2 COMMUNICATION OF REAL ESTATE APPRAISALS AS PROVIDED IN THIS
3 ARTICLE OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE.

4 (B) FAILS OR REFUSES WITHOUT GOOD CAUSE TO EXERCISE REASON-
5 ABLE DILIGENCE IN DEVELOPING OR COMMUNICATING AN APPRAISAL.

6 (C) DEMONSTRATES INCOMPETENCE IN DEVELOPING OR COMMUNICATING
7 AN APPRAISAL.

8 Section 2. This amendatory act shall not take effect unless
9 Senate Bill No. ____ or House Bill No. ____ (request
10 no. 00986'89 a) of the 85th Legislature is enacted into law.