

HOUSE BILL No. 5860

September 30, 2014, Introduced by Rep. O'Brien and referred to the Committee on
Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 2601 and 2605 (MCL 339.2601 and 339.2605), as
amended by 2006 PA 414.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2601. As used in this article:

2 (a) "Appraisal" means an opinion, conclusion, or analysis
3 relating to the value of real property but does not include any of
4 the following:

5 (i) A market analysis performed by a person **THAT IS** licensed
6 under article 25 solely for the purpose of assisting a customer or
7 potential customer in determining the potential sale, purchase, or
8 listing price of real property or the rental rate of real property
9 as long as a fee or any other valuable consideration is not charged

1 for that analysis.

2 (ii) A market analysis of real property for a fee performed by
 3 a broker or associate broker **WHO IS** licensed under article 25 ~~which~~
 4 **THAT** does not involve a federally related transaction if the market
 5 analysis is put in writing and it states in ~~boldface~~ **BOLDFACED**
 6 print "This is a market analysis, not an appraisal and was prepared
 7 by a licensed real estate broker or associate broker, not a
 8 licensed appraiser.". ~~Failure to do so results in the individual~~
 9 ~~being subject to the penalties set forth in article 6.~~

10 (iii) An assessment of the value of real property performed on
 11 behalf of a local unit of government **THAT IS** authorized to impose
 12 property taxes when performed by an assessor **WHO IS** certified under
 13 section 10d of the general property tax act, 1893 PA 206, MCL
 14 211.10d, or an individual employed in an assessing capacity.

15 (b) "AQB criteria" means ~~the~~ **ALL OF THE FOLLOWING, IF**
 16 **APPLICABLE:**

17 (i) **THE** criteria established by the appraiser qualifications
 18 board of the appraisal foundation ~~or as adopted by rule of the~~
 19 ~~director. Until January 1, 2008, AQB criteria means the criteria~~
 20 ~~entitled "Real Property Appraiser Qualification Criteria and~~
 21 ~~Interpretation of the Criteria", adopted by the appraiser~~
 22 ~~qualifications board on February 16, 1994, effective January 1,~~
 23 ~~1998, and as revised and effective January 1, 2003. Beginning~~
 24 ~~January 1, 2008, AQB criteria means the criteria entitled "Real~~
 25 ~~Property Appraiser Qualification Criteria and Interpretation of the~~
 26 ~~Criteria", adopted by the appraiser qualifications board on~~
 27 ~~February 20, 2004, effective January 1, 2008.~~ **AND IN EFFECT ON THE**

1 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBPARAGRAPH.

2 (ii) ANY AMENDMENTS ADOPTED BY THE APPRAISER QUALIFICATIONS
3 BOARD OF THE APPRAISAL FOUNDATION TO THE CRITERIA DESCRIBED IN
4 SUBPARAGRAPH (i) UNLESS THE DIRECTOR REJECTS THOSE AMENDMENTS.

5 (iii) ANY AMENDMENTS MADE TO THE CRITERIA DESCRIBED IN
6 SUBPARAGRAPH (i) OR (ii) BY THE DIRECTOR.

7 (c) "Appraiser" means an individual WHO IS engaged in or
8 offering to engage in the development and communication of an
9 appraisal.

10 (d) "Certified general real estate appraiser" means an
11 individual who is licensed under section 2610 to appraise all types
12 of real property, including nonresidential real property involving
13 federally related transactions and real estate related financial
14 transactions.

15 (e) "Certified residential real estate appraiser" means an
16 individual who is licensed under section 2610 to appraise all types
17 of residential real property involving real estate related
18 financial transactions and federally related transactions as
19 authorized by the regulations of a federal financial institution
20 regulatory agency and resolution trust corporation as well as any
21 nonresidential, nonfederally related transaction for which the
22 individual is qualified.

23 (f) "Federal financial institution regulatory agency" means
24 the board of governors of the federal reserve system, the federal
25 deposit insurance corporation, the office of the comptroller of the
26 currency, the office of thrift supervision, or the national credit
27 union administration.

(g) "Federally related transaction" means any real estate related financial transaction that a federal financial institution regulatory agency engages in, contracts for, or regulates and that requires the services of an appraiser under any of the following:

(i) 12 CFR part 323, adopted by the federal deposit insurance corporation.

(ii) 12 CFR parts 208 and 225, adopted by the board of governors of the federal reserve system.

(iii) 12 CFR parts 701, 722, and 741, adopted by the national credit union administration.

(iv) 12 CFR part 34, adopted by the office of the comptroller of the currency.

(v) 12 CFR parts 506, 545, 563, 564, and 571, adopted by the office of thrift supervision.

(h) "Limited real estate appraiser" means an individual ~~meeting~~ **WHO MEETS** the AQB criteria for appraiser trainee and **IS** licensed under section 2610 to perform appraisals of real property **THAT DO** not ~~involving~~ **INVOLVE** real estate related financial transactions or federally related transactions that require the services of a state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser.

(i) "Real estate related financial transaction" means any of the following:

(i) A sale, lease, purchase, investment in, or exchange of real property or the financing of real property.

(ii) A refinancing of real property.

1 (iii) The use of real property as security for a loan or
2 investment, including mortgage-backed securities.

3 (j) "Real property" means an identified tract or parcel of
4 land, including improvements on that land, as well as any
5 interests, benefits, or rights inherent in the land.

6 (k) "Residential real property" means real property used as a
7 residence containing a dwelling that has not more than 4 living
8 units.

9 (l) "State licensed real estate appraiser" means an individual
10 who is licensed under section 2610 to appraise real property,
11 including, but not limited to, residential and nonresidential real
12 property involving federally related transactions and real estate
13 related financial transactions.

14 (m) "Uniform standards of professional appraisal practice"
15 means those standards relating to real property adopted by the
16 appraisal foundation on March 31, 1999, or as adopted by rule of
17 the director.

18 Sec. 2605. (1) At a minimum and subject to subsection (2),
19 licensees under this article shall utilize the uniform standards of
20 professional appraisal practice.

21 (2) The director may supplement or adopt by reference any
22 amendments to the uniform standards of professional appraisal
23 practice through the promulgation of rules if the director
24 determines that the amendments or supplemental standards serve as a
25 basis for the competent development and communication of an
26 appraisal and are not in conflict with federal requirements.

27 (3) The director through promulgation of a rule may supplement

1 or adopt by reference any changes promulgated by a federal
2 financial institution regulatory agency relative to standards for a
3 federally related transaction.

4 (4) The department shall utilize the AQB criteria regarding
5 education, examination, and experience for licensure under this
6 article. ~~The AQB criteria are adopted by reference. The department~~
7 ~~may, by promulgation of a rule by the director, supplement or amend~~
8 ~~the standards by adoption of a stricter standard that is otherwise~~
9 ~~in compliance with the minimum AQB criteria in effect or by~~
10 ~~adoption of subsequent amendments to that standard adopted by the~~
11 ~~appraiser qualification board of the appraisal foundation.~~