

# Legislative Analysis



## TIME LIMIT FOR COMPLAINT AGAINST APPRAISER

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**House Bill 5591 (H-1) as reported from committee**

**Sponsor: Rep. Brandt Iden**

**Committee: Regulatory Reform**

**Complete to 3-13-18**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 157 of 2018)*

**BRIEF SUMMARY:** House Bill 5591 would require a complaint filed against a real estate appraiser that seeks an administrative penalty for certain conduct on the part of the appraiser to be filed within certain time limits.

**FISCAL IMPACT:** House Bill 5591 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs, which would depend on the bill's impact on the number of complaints filed with the department. If the limitation established by this bill were to decrease the number of complaints received by the department, modest cost savings may result.

### **THE APPARENT PROBLEM:**

Generally speaking, the role of an appraiser is to determine the current value of a property. Such things as the condition of the property, renovations to kitchens or finished basements, and how much similar properties in the same neighborhood have sold for are considered. Michigan requires appraisers to be licensed. In addition to complying with licensing laws and regulations, appraisers adhere to professional standards and ethics. If an appraiser engages in certain conduct, or violates statutory requirements, a consumer may file a complaint with the Department of Licensing and Regulatory Affairs (LARA). If the departmental investigation supports the complaint, LARA may fine the appraiser or impose a license sanction.

There is no time frame set in the statute that regulates appraisers to limit when a complaint against an appraiser seeking an administrative action may be brought. There are statutes of limitation, or time restrictions, for civil actions claiming negligence or breach of contract, and criminal acts also have a time frame for when charges can be filed. It has been suggested that a time limit for filing a complaint against an appraiser when seeking an administrative sanction be placed into law.

### **THE CONTENT OF THE BILL:**

House Bill 5591 would require a complaint filed against a real estate appraiser that seeks an administrative penalty for certain conduct on the part of the appraiser to be filed within 18 months after one of the following dates, whichever occurs later:

- The date of the alleged violation.
- If the violation was in connection with the performance of an appraisal, the delivery of the appraisal to the client.
- If the alleged violation occurred in connection with an appraisal or appraisal review performed in the capacity of an expert witness, the delivery of the appraisal or appraisal review to the opposing party.

The bill would amend Section 2635 of Article 26 of the Occupational Code and would apply to complaints filed with LARA under Article 5 of the Code against a limited real estate appraiser, licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser. Section 2635 subjects a licensee to administrative penalties under Article 6 of the Code for certain, specified acts. Among the acts that could subject a licensee to penalties is violating any of the standards for the development and communication of real property appraisals or demonstrating incompetence in developing and communicating an appraisal. A violation of one of the listed acts, which involves inflating a home's value to a predetermined amount, may also result in a criminal penalty.

Administrative penalties that may be imposed under Article 6 for a violation of Section 2635 and for which a complaint was filed under Article 5 include license or certificate of registration sanctions (suspension, denial, or revocation), censure, probation, being required to make restitution, or a fine of not more than \$10,000.

MCL 339.2635

***ARGUMENTS:***

***For:***

The bill would establish a time limit, or statute of limitation, on filing a complaint with the state agency that regulates appraisers. Under the bill, for certain conduct on the part of an appraiser, a person would have 18 months from the date of the violation or other circumstance as specified in the bill. Reportedly, due in part to the lack of an end date in which to file a complaint, some who were affected by events surrounding the housing bubble crisis filed complaints with LARA regarding appraised property values 6, 7, even 8 years after the appraisal had been completed and delivered. The bill is needed, as memories fade over time, and without an established time limit, an appraiser may no longer have the file needed to defend himself or herself. The 18-month time limit would apply to both residential and commercial property appraisals, and is similar to the limit established for complaints seeking an administrative action against home builders.

***Against:***

No arguments against the bill were offered during committee testimony.

***POSITIONS:***

Michigan Realtors indicated support for the bill. (3-7-18)

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