



**Senate Fiscal Agency**  
**P. O. Box 30036**  
**Lansing, Michigan 48909-7536**

BILL



ANALYSIS

**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

House Bill 5591 (Substitute H-1 as passed by the House)  
Sponsor: Representative Brandt Iden  
House Committee: Regulatory Reform  
Senate Committee: Regulatory Reform

Date Completed: 5-9-18

### **CONTENT**

**The bill would amend Article 26 of the Occupational Code to establish time limits for filing a complaint filed against a real estate appraiser that seeks a penalty for certain conduct.**

Article 5 of the Code permits the Department of the Attorney General, the Department of Licensing and Regulatory Affairs (LARA), a licensing board, or any other person to file a complaint with LARA that alleges that a person has violated the Code, a rule promulgated under the Code, or an order issued under the Code

The bill would require a complaint filed under Article 5 that seeks a penalty for a violation of Section 2635 to be filed within 18 months after one of the following dates, whichever occurred last:

- The date of the alleged violation.
- If the alleged violation occurred 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.

(Section 2635 of the Code provides that a real estate appraiser who does one or more of the following is subject to the penalties set forth in Article 6:

- Violates any of the standards for the development and communication of real property appraisals as provided in Article 26 or a promulgated rule.
- Fails or refuses without good cause to exercise reasonable diligence in developing or communicating an appraisal.
- Demonstrates incompetence in developing or communicating an appraisal.
- Fails to make available to LARA on request or fails to maintain books and records required under Article 26.
- Performs, attempts to perform, or offers to perform appraisal services for which the individual is not licensed under Article 26.
- Aids or abets another to commit a violation of the Code or promulgated rules.
- Uses the license of another individual or knowingly allows another individual to use his or her license.

- Fails to disclose to the client, before making an appraisal, that the licensee's appraisal cannot be used in a federally related transaction, in the case of a limited real estate appraiser.

An appraiser also is subject to penalties if he or she develops and communicates, in violation of the standards adopted under Article 26, an appraisal used as an investment or as collateral for a loan in a real estate-related financial transaction by developing and communicating that appraisal as a result of the client's or the intended user's setting preconditions on the outcome of the appraisal as a prerequisite for being selected or for obtaining future appraisal work, and/or representing or implying that payment for the development and communication of the appraisal is predicated on attaining a desired minimum appraisal value.

Under Article 6, penalties for a violation of Section 2635 may include limitation, suspension, denial, or revocation of a license; an administrative fine of up to \$10,000 payable to LARA; censure; probation; and/or a requirement that restitution be made.)

The bill would take 90 days after its enactment.

MCL 339.2635

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs and no fiscal impact on local units of government. The addition of a filing deadline could reduce the number of complaints made to the Department, which could result in reduced administrative costs. The magnitude of savings would depend on the number of complaints not filed due to the deadline. In addition, if fewer complaints were filed, the Department could experience a loss of fine revenue.

Fiscal Analyst: Elizabeth Raczkowski

SAS\S1718\s5591sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.