

APPRAISAL MANAGEMENT COMPANIES

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House Bill 5481 (H-1) as referred to second committee

Sponsor: Rep. Diana Farrington

1st Committee: Financial Services

2nd Committee: Ways and Means

Complete to 3-13-20

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

SUMMARY:

House Bill 5481 would amend several provisions in Article 26A of the Occupational Code, which regulates appraisal management companies.

Definition of appraisal management services

The act currently defines “appraisal management services” as performing the following functions for a client or clients:

- Administering a network of independent contract appraisers to perform real estate appraisal services.
- Receiving requests for real estate appraisal services and, for a fee paid by the client, entering into agreements with one or more independent appraisers to perform the real estate appraisal services described in the request.
- Acting as a third-party broker or intermediary between persons requesting real estate appraisal services and independent appraisers who agree to provide those services.

Under the bill, “appraisal management services” would instead mean performing these functions for a client or clients:

- Recruiting, selecting, and retaining appraisers.
- Contracting with independent contract appraisers to perform appraisal assignments.
- Managing the process of having an appraisal performed, which would include at least the following:
 - Providing administrative services such as receiving appraisal orders and appraisal reports.
 - Submitting completed appraisal reports to creditors and secondary market participants.
 - Collecting fees from creditors and secondary market participants for services provided.
 - Paying appraisers for services performed.
- Reviewing and verifying the work of appraisers.

Definition of appraiser panel

The act currently defines “appraiser panel” as a group of independent appraisers who are selected by an appraisal management company to perform real estate appraisal services for the appraisal management company.

Under the bill, “appraiser panel” would instead mean a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as

independent contractors for the appraisal management company. An appraiser would be considered an independent contractor if the appraiser was treated as an independent contractor by the appraisal management company for purposes of federal income taxation. For purposes of this provision, “appraiser” would include both of the following:

- Appraisers accepted by the appraisal management company for consideration for future appraisal assignments.
- Appraisers engaged by the appraisal management company to perform one or more appraisals.

Exemption of federally regulated appraisal management companies

Currently, among other exemptions, Article 26A does not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution (as defined in 12 USC 3350) regulated by a federal financial institution regulatory agency (also as defined in 12 USC 3350).

The bill would instead exempt from Article 26A a ***federally regulated appraisal management company***, except in relation to information and fees collected by the Department of Licensing and Regulatory Affairs (LARA) that are to be transmitted to the appraisal subcommittee of the Federal Financial Institutions Examination Council established under 12 USC 3303.

Federally regulated appraisal management company would mean an appraisal management company that is owned and controlled by an insured depository institution (as defined in 12 USC 1813) and is regulated by any of the following:

- Office of the Comptroller of the Currency
- Board of Governors of the Federal Reserve System
- Federal Deposit Insurance Corporation

National registry information and fees

The bill would add a provision to require a federally regulated appraisal management company or an applicant for licensure as an appraisal management company to provide LARA with any national registry information and fees required by the appraisal subcommittee of the Federal Financial Institutions Examination Council under 12 USC 3338.

Condition of licensure

The bill would add a provision to prohibit LARA from granting a license to a person as an appraisal management company if LARA determined that any person that is a direct or indirect owner of the applicant had had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked for a substantive cause in Michigan or any other state. An applicant would not be barred from licensure under this provision if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and had been reinstated by Michigan or any other states where the appraiser was licensed or certified.

Monthly compilation

The bill would require LARA to compile a list, at least monthly, of appraisal management company licensees and federally regulated appraisal management companies under Article 26A and provide the list to the appraisal subcommittee of the Federal Financial Institutions

Examination Council, as required by 12 USC 3338, and remit the appropriate fee under the State License Fee Act.

Failure to pay

Currently, an appraisal management company is subject to penalties under the act if it fails, neglects, or refuses to pay an independent appraiser for an appraisal or valuation assignment within 60 days after the date the appraiser transmits provides an appraisal or valuation. (The penalties do not apply if the appraiser breached his or her with the agreement or performed substandard work.)

The bill would revise this time frame to 30 days.

Certifications to the department

In addition to requirements contained in current law, the bill would require an appraisal management company licensed under Article 26A to certify the following to LARA on an annual basis:

- That the appraisal management company has a system and process in place to ensure that the appraisal management company, in engaging an appraiser, selects an appraiser who is independent of the transaction and has the education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type.
- That the appraisal management company directs appraisers to perform an assignment in accordance with the uniform standards of professional appraisal practice.
- That the appraisal management company has a system in place to conduct its appraisal management services in accordance with requirements of the federal Truth in Lending Act (contained in 15 USC 1639(a) to (i)) and the regulations promulgated under that act.

Removing an appraiser from a panel

Currently, beginning 90 days after an appraisal management company first adds an independent appraiser to its appraiser panel, the company cannot remove the appraiser from its panel without notifying the appraiser in writing of the reasons for the removal and allowing the appraiser the opportunity to respond. This notification must be made not more than 10 business days after the appraiser's removal.

Under the bill, this provision would be effective immediately, rather than 90 days after the appraiser is added to the panel. Additionally, the bill would require the notification described above to be made not less than 10 business days before the appraiser's removal, rather than not more than 10 business days after.

MCL 339.2661 et seq.

FISCAL IMPACT:

House Bill 5481 would not have a fiscal impact on the Department of Licensing and Regulatory Affairs or any other unit of state or local government.

POSITIONS:

Representatives of the following organizations testified in support of the bill (2-26-20):

Michigan Bankers Association

Michigan Realtors

The following entities indicated support for the bill (2-26-20):

Real Estate Valuation Advocacy Association

Amrock

Michigan Credit Union League

Michigan Mortgage Lenders Association

The Department of Licensing and Regulatory Affairs indicated a neutral position on the bill. (3-4-20)

Legislative Analyst: E. Best
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.