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House Bill 5481 (Substitute H-1 as passed by the House)  
Sponsor: Representative Diana Farrington  
House Committee: Financial Services  
Senate Committee: Regulatory Reform

Date Completed: 6-23-20

### **CONTENT**

**The bill would amend Article 26A of the Occupational Code to do the following:**

- **Require an applicant for licensure as an appraisal management company or a Federally regulated appraisal management company to provide the Department of Licensing and Regulatory Affairs (LARA) with any national registry information and fees required by the appraisal subcommittee of the Federal Financial Institutions Examination Council.**
- **Prohibit LARA from granting a license as an appraisal management company if any person who was a direct or indirect owner of the applicant had had an appraiser license or certificate refused, denied, canceled, surrendered instead of revocation, or revoked for a substantive cause.**
- **Require LARA to compile, at least monthly, a list of appraisal management company licensees and Federally regulated appraisal management companies under Article 26A and provide it to the appraisal subcommittee of the Federal Financial Institutions Examination Council, and remit the appropriate fee.**
- **Specify that an appraisal management company would be subject to penalties if it failed, neglected, or refused to pay an independent appraiser for an appraisal or valuation assignment within 30, instead of 60, days after the date on which the independent appraiser transmitted or otherwise provided the completed appraisal or valuation to the appraisal management company or its assignee, subject to exceptions.**
- **Require an appraisal management company to certify annually to LARA that it had certain systems and processes in place.**
- **Modify the process an appraisal management company uses to remove an appraiser from its appraiser panel.**

#### **Appraisal Management Company Licensure**

A person seeking to be licensed as an appraisal management company under Article 26A must submit to LARA a license application, in a form prescribed by the Department, that includes specified information. An applicant for licensure must include with an application the license fee described in Section 38a of the State License Fee Act. (Section 38a prescribes a \$500 application processing fee and a \$500 annual license fee for a person licensed or seeking licensure as a State licensed appraisal management company.)

Under the Code, "appraisal management services" means to perform any of 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 people requesting real estate appraisal services and independent appraisers who agree to provide those services.

Instead, under the bill, "appraisal management services" would mean to perform any of the following 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, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from credits and secondary market participants for services provided, and paying appraisers for services performed.
- Reviewing and verifying the work of appraisers.

Under the bill, an applicant for licensure or a Federally regulated appraisal management company would have to provide LARA with any national registry information and fees required by the appraisal subcommittee of the Federal Financial Institutions Examination Council. "Federally regulated appraisal management company" would mean an appraisal management company that is owned and controlled by an insured depository institution, as that term is defined in 12 USC 1813, and is regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation. (Title 12 USC 1813 defines "insured depository institution" as any bank or saving association the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to Chapter 16 (Federal Deposit Insurance Corporation) of Title 12 of the US Code.)

The Code prohibits the Department from granting a license to a person applying for a license as an appraisal management company under Article 26A unless certain conditions are met. Under the bill, LARA also could not grant a license if any person who was a direct or indirect owner of the applicant had an appraiser license or certificate refused, denied, canceled, surrendered instead of revocation, or revoked for a substantive cause in Michigan or in any other state, as determined by LARA. An applicant would not be barred if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and had been reinstated in Michigan or any other states in which the appraiser was licensed or certified.

#### Monthly Compilation

Under the bill, at least monthly, the Department would have to compile a list of appraisal management company licensees and federally regulated appraisal management companies under Article 26A, provide it to the appraisal subcommittee of the Federal Financial Institutions Examination Council, and remit the appropriate fee under Section 38a of the State License Fee Act.

#### Failure to Pay

Under the Code, an appraisal management company is subject to penalties under Article 6 if it fails, neglects, or refuses to pay an independent appraiser for an appraisal or valuation assignment within 60 days after the date on which the independent appraiser transmits or

otherwise provides the completed appraisal or valuation to the appraisal management company or its assignee, unless the appraiser breached his or her agreement with the company concerning that assignment or his or her performance of the appraisal or valuation services was substandard.

The bill would revise the specified time period to 30, instead of 60, days.

#### Annual Certification

The Code requires a licensed appraisal management company to certify annually to LARA, on a form prescribed by the Department, both of the following:

- That it has a system and process in place to verify that an individual the company is adding to its appraisal panel is licensed under Article 26.
- That it has a system in place to review periodically the work of appraiser who perform real estate appraisal services for the company to verify that the real estate appraisal services are being conducted in accordance with the uniform standards of professional appraisal practice.

The Code defines "appraisal 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.

Instead, under the bill, the term would 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. As used above, appraiser would include both appraisers accepted by the appraisal management company for consideration for future appraisal assignments and appraisers engaged by the appraisal management company to perform one or more appraisals. An appraiser would be an independent contractor if the appraiser were trained as an independent contractor by the appraisal management company for purposes of Federal income taxation.

Under the bill, an appraisal management company also would have to certify annually to LARA all of the following:

- That it had a system and process in place to ensure that the company, in engaging an appraiser, selected an appraiser who was independent of the transaction and who had the requisite education, expertise, and experience necessary to complete the appraisal assignment competently for the particular market and property type.
- That it directed appraisers to perform an assignment in accordance with the uniform standards of professional appraisal practice.
- That it had a system in place to conduct its appraisal management services in accordance with the Truth in Lending Act and regulations promulgated under that Act.

#### Removal of Independent Appraiser from Appraisal Panel

Under the Code, beginning 90 days after an appraisal management company first adds an independent appraiser to its appraiser panel, the appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser, without doing the following:

- Within 10 business days after removing the appraiser, notifying the appraiser in writing of the following, as applicable: a) the reasons why the appraiser was removed from the

panel, and b) if the appraiser was removed from the panel for illegal conduct, a violation of the uniform standards of professional appraisal practice, or a violation of State licensing standards, the nature of the alleged conduct or violation.

- Providing an opportunity for the appraiser to respond to the company's notification or notifications described above.

Instead, under the bill, an appraisal management company could not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser, without doing the following:

- At least 10 business days before removing of the appraiser, notifying the appraiser in writing of the following, as applicable: a) the reasons why the appraiser will be removed from the panel, and b) if the appraiser will be removed from the panel for illegal conduct, a violation of the uniform standards of professional appraisal practice, or a violation of State licensing standards, the nature of the alleged conduct or violation.
- Providing an opportunity for the appraiser to respond to the company's notification or notifications described above.

MCL 339.2661 et al.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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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.