

HOUSE BILL NO. 5481

February 11, 2020, Introduced by Reps. Farrington, Wozniak and Schroeder and referred to the Committee on Financial Services.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 2661, 2663, 2665, 2667, 2673, and 2677 (MCL
339.2661, 339.2663, 339.2665, 339.2667, 339.2673, and 339.2677), as
added by 2012 PA 505, and by adding section 2670.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2661. As used in this act:
- 2 (a) "Appraisal" means that term as defined in section 2601.
- 3 (b) "Appraisal management company" means a person that
- 4 provides appraisal management services.



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(c) "Appraisal management services" means to perform any of the following functions for a client or clients:

~~(i) Administering a network of independent contract appraisers to perform real estate appraisal services.~~

~~(ii) Receiving requests for real estate appraisal services and, for a fee paid by the client, entering into agreements with 1 or more independent appraisers to perform the real estate appraisal services described in the request.~~

~~(iii) Acting as a third-party broker or intermediary between persons requesting real estate appraisal services and independent appraisers who agree to provide those services.~~

(i) Recruiting, selecting, and retaining appraisers.

(ii) Contracting with independent contract appraisers to perform appraisal assignments.

(iii) Managing the process of having an appraisal performed, including, but not limited to, 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, and paying appraisers for services performed.

(iv) Reviewing and verifying the work of appraisers.

(d) "Appraiser" means that term as defined in section 2601.

~~(e) "Appraiser panel" means a group of independent appraisers who are selected by an appraisal management company to perform real estate appraisal services for the appraisal management company.~~
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

1 company. As used in this subdivision, appraiser includes both
2 appraisers accepted by the appraisal management company for
3 consideration for future appraisal assignments and appraisers
4 engaged by the appraisal management company to perform 1 or more
5 appraisals. An appraiser is an independent contractor if the
6 appraiser is treated as an independent contractor by the appraisal
7 management company for purposes of federal income taxation.

8 (f) "Certified appraiser" means a certified general real
9 estate appraiser, as **that term is** defined in section 2601, or a
10 certified residential real estate appraiser, as **that term is**
11 defined in section 2601.

12 (g) "Client" means a person that contracts with, or otherwise
13 enters into an agreement with, an appraisal management company for
14 the performance of real estate appraisal services.

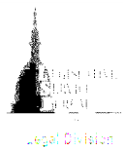
15 (h) "Controlling person" means any of the following:

16 (i) An owner, officer, or director of a corporation,
17 partnership, or other business entity that offers or applies to
18 offer appraisal management services in this state.

19 (ii) An individual who is employed, appointed, or authorized by
20 an appraisal management company and has the authority to enter into
21 contractual relationships with clients for the performance of
22 appraisal management services and the authority to enter into
23 agreements with independent appraisers for the performance of real
24 estate appraisal services.

25 (iii) An individual who possesses, directly or indirectly, the
26 power to direct or cause the direction of the management or
27 policies of an appraisal management company.

28 (i) **"Federally regulated appraisal management company" means**
29 **an appraisal management company that is owned and controlled by an**



1 insured depository institution, as that term is defined in 12 USC
 2 1813, and is regulated by the Office of the Comptroller of the
 3 Currency, the Board of Governors of the Federal Reserve System, or
 4 the Federal Deposit Insurance Corporation.

5 (j) ~~(i)~~—"Real estate appraisal services" means the practice of
 6 developing an opinion of the value of real property in a manner
 7 that conforms with the uniform standards of professional appraisal
 8 practice.

9 (k) ~~(j)~~—"Uniform standards of professional appraisal practice"
 10 means that term as defined in section 2601.

11 Sec. 2663. (1) Except as provided in subsection (2), a person
 12 shall not do any of the following in this state without a license
 13 issued by the department under this article:

14 (a) Directly or indirectly engage or attempt to engage in
 15 business as an appraisal management company.

16 (b) Directly or indirectly perform or attempt to perform
 17 appraisal management services.

18 (c) Advertise or hold itself out as engaging in or conducting
 19 business as an appraisal management company.

20 (d) Use the term "appraisal management company", "mortgage
 21 technology company", or any similar term that tends to indicate the
 22 person is licensed under this act.

23 (2) This article does not apply to any of the following:

24 (a) A person that exclusively engages individuals on an
 25 ~~employer and employee~~ **employer-employee** basis to perform real
 26 estate appraisal services in the normal course of its business and
 27 that is responsible for ensuring that the real estate appraisal
 28 services performed by its employees comply with the uniform
 29 standards of professional appraisal practice.



(b) A person that in the normal course of business enters into an agreement, whether written or otherwise, with an independent contractor appraiser for that appraiser to perform real estate appraisal services and, when the appraisal is complete, cosigns the report with that independent contractor appraiser.

(c) ~~An~~ **A federally regulated** appraisal management company, ~~that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency. As used in this subdivision:~~

~~(i) "Federal financial institution regulatory agency" means 1 of the federal financial institution regulatory agencies, as that term is defined in 12 USC 3350.~~

~~(ii) "Financial institution" means that term as defined in 12 USC 3350.~~ **except as related to the information and fees collected by the department that is to be transmitted to the appraisal subcommittee of the Federal Financial Institutions Examination Council established under section 1004 of the financial institutions regulatory and interest rate control act of 1978, Public Law 95-630, 12 USC 3303.**

Sec. 2665. (1) A person seeking licensure as an appraisal management company under this article shall submit to the department a license application, in the form prescribed by the department, that includes all of the following information:

(a) The applicant's name.

(b) The street address of the applicant's principal place of business. The department shall not accept an application that includes only a post office box as an address.

(c) Telephone contact information concerning the applicant.

(d) The name and contact information for the applicant's agent



1 for service of process in this state.

2 (e) The name, address, and contact information for any
3 individual or any corporation, partnership, or other business
4 entity that owns 10% or more of the appraisal management applicant.

5 (f) The name, address, and contact information for any
6 controlling person of the applicant.

7 (g) A certification that the applicant has the system and
8 process described in section 2673(1) in place.

9 (h) A certification that the applicant has the system
10 described in section ~~2673(2)~~ **2673 (2) (b)** in place.

11 (i) A certification that the applicant maintains the detailed
12 record of each service request described in section 2673(3).

13 (j) A completed irrevocable consent to service of process, in
14 the form prescribed by the department, executed on behalf of the
15 applicant.

16 (k) Any other information that is reasonably required by the
17 department to process the application.

18 (2) An applicant for licensure ~~under subsection (1)~~ shall
19 include with the application **submitted under subsection (1)** the
20 license fee described in section 38a of the state license fee act,
21 1979 PA 152, MCL 338.2238a.

22 **(3) An applicant for licensure or a federally regulated**
23 **appraisal management company shall provide the department with any**
24 **national registry information and fees required by the appraisal**
25 **subcommittee of the Federal Financial Institutions Examination**
26 **Council under section 1109 of the financial institutions reform,**
27 **recovery, and enforcement act of 1989, Public Law 101-73, 12 USC**
28 **3338.**

29 Sec. 2667. (1) The department shall not grant a license to a



1 person applying for a license as an appraisal management company
2 under this article unless all of the following are met:

3 (a) Any person that is a direct or indirect owner of the
4 applicant has not had an appraiser license or certificate refused,
5 denied, canceled, surrendered in lieu of revocation, or revoked for
6 a substantive cause in this state or in any other state, as
7 determined by the department. An applicant is not barred by this
8 subsection if the license or certificate of the appraiser with an
9 ownership interest was not revoked for a substantive cause and has
10 been reinstated by this state or any other states in which the
11 appraiser was licensed or certified.

12 (b) ~~(a)~~ Any individual who owns more than 10% of the applicant
13 meets all of the following:

14 (i) Has not had a license or certificate to act as an appraiser
15 refused, denied, canceled, or revoked in this state or in any other
16 state, unless that license or certificate was subsequently granted
17 or reinstated.

18 (ii) Has not been convicted of, or entered a plea of guilty or
19 nolo contendere to, a felony relating to the practice of appraisal
20 or any crime involving fraud, misrepresentation, or moral
21 turpitude.

22 (iii) Submits to a background investigation, as determined by
23 the department.

24 (iv) Certifies to the department that he or she has never had a
25 license or certificate to act as an appraiser refused, denied,
26 canceled, or revoked in this state or in any other state, unless
27 that license or certificate was subsequently granted or reinstated.

28 (c) ~~(b)~~ The applicant designates an individual to act as the
29 primary contact for all communication between the department and



1 the appraisal management company. The individual designated under
2 this subdivision must be an attorney licensed to practice law in
3 any state or territory of the United States who is designated by
4 the appraisal management company or an individual who meets all of
5 the following:

6 (i) He or she is a controlling person of the applicant.

7 (ii) He or she certifies to the department that he or she has
8 never had a certificate or a license issued by this state or any
9 other state to act as an appraiser refused, denied, canceled, or
10 revoked, unless that license or certificate was subsequently
11 granted or reinstated.

12 (iii) He or she has not been convicted of, or entered a plea of
13 guilty or nolo contendere to, a felony relating to the practice of
14 appraisal or any crime involving fraud, misrepresentation, or moral
15 turpitude.

16 (iv) He or she submits to a background investigation, as
17 determined by the department.

18 (v) He or she has a valid license as a certified appraiser.

19 (d) ~~(e)~~—If applicable, the applicant meets subsection (2).

20 (2) If an application for a license under this article is made
21 by a person whose license under this article was previously denied,
22 suspended, or revoked as a result of disciplinary action for
23 violation of this article or rules promulgated under this article,
24 the department may require, as a condition to licensure of the
25 applicant or the removal of the suspension, that the applicant
26 provide a surety bond to the department that meets all of the
27 following:

28 (a) Is issued by a bonding company or insurance company
29 authorized to do business in this state.



(b) Expires after the date the license expires.

(c) Is in a principal amount of not more than \$5,000.00. The department shall determine the principal amount of the bond, based on the size of the applicant's operation in this state.

(d) Is in a form satisfactory to the department, is payable to the department for the benefit of Michigan residents, and secures the performance of the obligations of the applicant in connection with the conduct of its business.

(3) If the department orders the filing of a bond under subsection (2), a person injured by an unlawful act or omission of the applicant may bring an action in a proper court on the bond for the amount of the damage suffered as a result to the extent covered by the bond.

Sec. 2670. Not less than monthly, the department shall compile a list of appraisal management company licensees and federally regulated appraisal management companies under this article, provide it to the appraisal subcommittee of the Federal Financial Institutions Examination Council as required by section 1109 of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3338, and remit the appropriate fee under section 38a of the state license fee act, 1979 PA 152, MCL 338.2238a.

Sec. 2673. (1) An appraisal management company licensed under this article shall certify to the department on an annual basis, on a form prescribed by the department, that it has a system and process in place to ~~verify~~ **do both of the following:**

(a) Verify that an individual the company is adding to its appraiser panel is licensed under article 26.

(b) Ensure that the appraisal management company, in engaging



1 an appraiser, selects an appraiser who is independent of the
2 transaction and who has the requisite education, expertise, and
3 experience necessary to competently complete the appraisal
4 assignment for the particular market and property type.

5 (2) An appraisal management company licensed under this
6 article shall certify to the department on an annual basis, on a
7 form prescribed by the department, that it ~~has~~ **meets both of the**
8 **following:**

9 (a) **Directs appraisers to perform an assignment in accordance**
10 **with the uniform standards of professional appraisal practice.**

11 (b) **Has** a system in place to periodically review the work of
12 appraisers who perform real estate appraisal services for ~~it~~ **the**
13 **company** to verify that the real estate appraisal services are being
14 conducted in accordance with the uniform standards of professional
15 appraisal practice.

16 (3) An appraisal management company licensed under this
17 article shall certify to the department on an annual basis, on a
18 form prescribed by the department, that it maintains a detailed
19 record of each service request that it receives and the identity of
20 the independent appraiser that performs the real estate appraisal
21 services for the appraisal management company. An appraisal
22 management company shall retain the records described in this
23 subsection for at least 5 years.

24 (4) An appraisal management company licensed under this
25 article shall certify to the department on a biannual basis, on a
26 form prescribed by the department, that it has a system in place to
27 verify that each individual on its appraiser panel has not had his
28 or her license as an appraiser refused, denied, canceled, revoked,
29 or surrendered in lieu of a pending revocation in the 24 months



preceding the date of the company's certification under this subsection.

(5) An appraisal management company licensed under this article shall certify to the department on an annual basis, on a form prescribed by the department, that it has a system in place to conduct its appraisal management services in accordance with the requirements of section 129E(a) to (i) of the truth in lending act, 15 USC 1639e(a) to (i), and regulations promulgated under that act.

Sec. 2677. (1) ~~Beginning 90 days after an appraisal management company first adds the independent appraiser to its appraiser panel, the~~ An appraisal management company shall 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 all of the following:

(a) ~~Within~~ **Not less than** 10 business days ~~after~~ **before** the removal of the appraiser, notifying the appraiser in writing of all of the following, as applicable:

(i) The reasons why the appraiser ~~was~~ **will be** removed from the panel.

(ii) If the appraiser ~~was~~ **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.

(b) Providing an opportunity for the appraiser to respond to the company's notification or notifications under subdivision (a).

(2) If an appraisal management company removes an independent appraiser from its appraiser panel for alleged illegal conduct, an alleged violation of the uniform standards of professional appraisal practice, or an alleged violation of state licensing



1 standards, the appraiser may file a complaint with the department
2 for a review of the decision of the appraisal management company.
3 In its consideration of the complaint, the department may not make
4 any determination regarding the nature of the business relationship
5 between the appraiser and the appraisal management company that is
6 unrelated to the alleged conduct or violation.

