

## OCCUPATIONAL CODE (EXCERPT)

### Act 299 of 1980

#### ARTICLE 26

#### **339.2601 Definitions.**

Sec. 2601. As used in this article:

(a) "Appraisal" means an opinion, conclusion, or analysis relating to the value of real property but does not include any of the following:

(i) A market analysis performed by a person that is licensed under article 25 solely for the purpose of assisting a customer or potential customer in determining the potential sale, purchase, or listing price of real property or the rental rate of real property as long as a fee or any other valuable consideration is not charged for that analysis.

(ii) A market analysis of real property for a fee performed by a broker or associate broker who is licensed under article 25 that does not involve a federally related transaction if the market analysis is put in writing and it states in boldfaced print "This is a market analysis, not an appraisal and was prepared by a licensed real estate broker or associate broker, not a licensed appraiser."

(iii) An assessment of the value of real property performed on behalf of a local unit of government that is authorized to impose property taxes when performed by an assessor who is certified under section 10d of the general property tax act, 1893 PA 206, MCL 211.10d, or an individual employed in an assessing capacity.

(b) "AQB criteria" means all of the following, if applicable:

(i) The criteria established by the appraiser qualifications board of the appraisal foundation and in effect on the effective date of the amendatory act that added subparagraph (ii). The director by rule may amend the criteria described in this subparagraph if the director determines that an amendment is required for purposes of this article.

(ii) Any amendments adopted by the appraiser qualifications board of the appraisal foundation to the criteria described in subparagraph (i). The director by rule may amend the amendments described in this subparagraph if the director determines that an amendment is required for purposes of this article.

(c) "Appraiser" means an individual who is engaged in or offering to engage in the development and communication of an appraisal.

(d) "Certified general real estate appraiser" means an individual who is licensed under section 2610 to appraise all types of real property, including nonresidential real property involving federally related transactions and real estate related financial transactions.

(e) "Certified residential real estate appraiser" means an individual who is licensed under section 2610 to appraise all types of residential real property involving real estate related financial transactions and federally related transactions as authorized by the regulations of a federal financial institution regulatory agency and resolution trust corporation as well as any nonresidential, nonfederally related transaction for which the individual is qualified.

(f) "Federal financial institution regulatory agency" means the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, the office of thrift supervision, or the national credit union administration.

(g) "Federally related transaction" means any real estate related financial transaction that a federal financial institution regulatory agency engages in, contracts for, or regulates and that requires the services of an appraiser under any of the following:

(i) 12 CFR part 323, adopted by the federal deposit insurance corporation.

(ii) 12 CFR parts 208 and 225, adopted by the board of governors of the federal reserve system.

(iii) 12 CFR parts 701, 722, and 741, adopted by the national credit union administration.

(iv) 12 CFR part 34, adopted by the office of the comptroller of the currency.

(v) 12 CFR parts 506, 545, 563, 564, and 571, adopted by the office of thrift supervision.

(h) "Limited real estate appraiser" means an individual who meets the AQB criteria for appraiser trainee and is licensed under section 2610 to perform appraisals of those properties that the state certified supervisory appraiser is permitted and competent to appraise.

(i) "Real estate related financial transaction" means any of the following:

(i) A sale, lease, purchase, investment in, or exchange of real property or the financing of real property.

(ii) A refinancing of real property.

(iii) The use of real property as security for a loan or investment, including mortgage-backed securities.

(j) "Real property" means an identified tract or parcel of land, including improvements on that land, as well as any interests, benefits, or rights inherent in the land.

(k) "Residential real property" means real property used as a residence containing a dwelling that has not more than 4 living units.

(l) "State licensed real estate appraiser" means an individual who is licensed under section 2610 to appraise real property, including, but not limited to, residential and nonresidential real property involving federally related transactions and real estate related financial transactions.

(m) "Uniform standards of professional appraisal practice" means all of the following, if applicable:

(i) Standards relating to real property adopted by the appraisal foundation and in effect on the effective date of the amendatory act that added subparagraph (ii). The director by rule may amend the standards described in this subparagraph if the director determines that an amendment is required for purposes of this article.

(ii) Any amendments adopted by the appraiser standards board of the appraisal foundation to the standards described in subparagraph (i). The director by rule may amend the amendments described in this subparagraph if the director determines that an amendment is required for purposes of this article.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1990, Act 269, Imd. Eff. Oct. 17, 1990;—Am. 1994, Act 125, Imd. Eff. May 16, 1994;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006;—Am. 2014, Act 433, Eff. Jan. 1, 2015.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

**Popular name:** Act 299

### **339.2603 Board of real estate appraisers; creation; qualifications of members.**

Sec. 2603. (1) There is created a board of real estate appraisers.

(2) Of those board members who are appraisers, 3 shall be certified general real estate appraisers, 1 shall be a certified residential real estate appraiser, and 2 shall be either state licensed real estate appraisers or additional certified residential real estate appraisers. At least 1 of those appraisers may be employed by a state or nationally chartered bank, a state or federally chartered savings and loan or savings bank, a state or federally chartered credit union, an entity of the federally chartered farm credit system, or an entity regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

**History:** Add. 1990, Act 269, Imd. Eff. Oct. 17, 1990;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2010, Act 90, Imd. Eff. June 10, 2010.

**Popular name:** Act 299

### **339.2605 Uniform standards of professional appraisal practice; rules; use of AQB criteria.**

Sec. 2605. (1) At a minimum and subject to subsection (2), a licensee under this article who performs an appraisal shall utilize the uniform standards of professional appraisal practice that are in effect at the time the licensee is engaged to perform the appraisal.

(2) The director may supplement or adopt by reference any amendments to the uniform standards of professional appraisal practice through the promulgation of rules if the director determines that the amendments or supplemental standards serve as a basis for the competent development and communication of an appraisal and are not in conflict with federal requirements.

(3) The director through promulgation of a rule may supplement or adopt by reference any changes promulgated by a federal financial institution regulatory agency relative to standards for a federally related transaction.

(4) The department shall utilize the AQB criteria regarding education, examination, and experience for licensure under this article.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006;—Am. 2014, Act 433, Eff. Jan. 1, 2015.

**Popular name:** Act 299

**Administrative rules:** R 339.23101 et seq. of the Michigan Administrative Code.

### **339.2607 Prohibited representations; definitions; authorized appraisals.**

Sec. 2607. (1) A person shall not act as or offer to act as an appraiser unless licensed under this article or exempt from licensure under this article.

(2) An individual shall not represent himself or herself to be a state licensed real estate appraiser, a certified general real estate appraiser, a certified residential real estate appraiser, or a limited real estate appraiser unless that individual is licensed under this article in the appropriate capacity.

(3) The terms "state licensed real estate appraiser", "certified general real estate appraiser", "certified

residential real estate appraiser", or "limited real estate appraiser" or any similar term tending to connote licensure under this article shall refer only to an individual licensed under this article and shall not refer to or be used in connection with the name or signature of a person that is not an individual licensed under this article.

(4) An individual licensed as a certified general real estate appraiser may perform the appraisal of real property of any type or value, including appraisals required for federally related transactions and real estate related financial transactions.

(5) An individual licensed as a certified residential real estate appraiser may perform the appraisal of residential real property and any other residential or nonresidential appraisal required for a federally related transaction for which a certified residential real estate appraiser is authorized under sections 1113 and 1114 of title XI of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3342 and 3343, real estate related financial transactions, and any nonfederally related transaction for which the licensee is qualified.

(6) An individual licensed as a state licensed real estate appraiser may independently perform the appraisal of residential real property and any other residential or nonresidential appraisal required for a federally related transaction for which a state licensed real estate appraiser is authorized under title XI of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3342 and 3343, real estate related financial transactions, and any nonfederally related transaction for which the licensee is qualified.

(7) An individual licensed as a limited real estate appraiser may perform independently only those appraisals related to transactions not requiring, under federal law or regulations, the services of a state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser. The appraisal must contain the supervisory signature of the state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser and must also contain the signature of the limited real estate appraiser only where the appraisal is performed by the limited real estate appraiser under the provisions of this subsection.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

**Popular name:** Act 299

**Administrative rules:** R 339.23101 of the Michigan Administrative Code.

### **339.2609 Appraisal; requirements.**

Sec. 2609. An appraisal shall be in writing and shall do all of the following:

- (a) Disclose any limitations on the type of analysis, valuation, or opinion.
- (b) Be independently and impartially prepared and conform to the uniform standards of professional appraisal practice and any other standards adopted by the director.
- (c) Include an opinion of defined value of adequately described real property as of a specific date and be supported by the presentation and analysis of relevant market information.
- (d) Indicate on every appraisal report the license number and level of licensure of the appraiser.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

**Popular name:** Act 299

### **339.2610 Licensure as limited real estate appraiser, state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser.**

Sec. 2610. The department shall license as a limited real estate appraiser, a state licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser an individual who is at least 18 years of age, is of good moral character, and provides proof of having completed the minimum education, examination, and experience requirements contained in the AQB criteria for the appropriate license category.

**History:** Add. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

**Popular name:** Act 299

### **339.2611 Repealed. 2006, Act 414, Imd. Eff. Sept. 29, 2006.**

**Compiler's note:** The repealed section pertained to qualifications for licensure as limited real estate appraiser.

**Popular name:** Act 299

### **339.2613-339.2615 Repealed. 2006, Act 414, Imd. Eff. Sept. 29, 2006.**

**Compiler's note:** The repealed sections pertained to qualifications for licensure as state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser.

residential real estate appraiser, and certified general real estate appraiser.

**Popular name:** Act 299

### **339.2617 Rules regulating educational courses; courses; compliance with AQB criteria.**

Sec. 2617. (1) The director may promulgate rules regulating the offering of educational courses required under this article, including the type and conditions of instruction, the qualification of instructors, the methods of grading, the means of monitoring and reporting attendance, and the representations made by course sponsors.

(2) All educational courses required under this article shall be courses offered by 1 of the following:

(a) An institution of higher education authorized to grant degrees, being a college, university, or community or junior college.

(b) A private school licensed by the department of education under 1943 PA 148, MCL 395.101 to 395.103, or authorized to operate in any other state or jurisdiction.

(c) A state or federal agency or commission.

(d) A nonprofit association related to real property or real property appraisal.

(3) Educational courses required for licensure under this article shall comply with AQB criteria.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

**Popular name:** Act 299

**Administrative rules:** R 339.23101 et seq. of the Michigan Administrative Code.

### **339.2619 Appraiser qualification board endorsed uniform real property appraiser examination; equivalent; validity of scores.**

Sec. 2619. (1) Except as otherwise provided in section 2623, an individual seeking licensure under this article as a state licensed real estate appraiser, certified general real estate appraiser, or certified residential real estate appraiser shall first successfully pass the appraiser qualification board endorsed uniform real property appraiser examination or its equivalent as appropriate to the level of licensure sought and that is acceptable to the board and the department.

(2) The board and department may adopt an examination prepared or approved by a professional entity or organization including, but not limited to, the appraisal qualification board if the department and the board determine that the examination serves as a basis for determining whether an individual has the knowledge and skills to perform with competence.

(3) Examination scores are considered valid for 2 years from the date of the examination.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

**Popular name:** Act 299

### **339.2621 Repealed. 2006, Act 414, Imd. Eff. Sept. 29, 2006.**

**Compiler's note:** The repealed section pertained to experience required for licensure.

**Popular name:** Act 299

### **339.2623 Licensing without examination.**

Sec. 2623. The department shall issue a certified general real estate appraiser, certified residential real estate appraiser, or state licensed real estate appraiser license without examination to an individual who, at the time of application, is licensed, registered, certified, or otherwise regulated by another state at that level if the requirements of that state, as determined by the board and the department, are at least equal to the requirements of this article.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

**Popular name:** Act 299

### **339.2625 Nonresident licensing; service of process; temporary permit.**

Sec. 2625. (1) A nonresident of this state may become licensed under this article by conforming with this article. The nonresident shall file an irrevocable consent to service of process which consent shall be signed by the licensee. A process or pleading served upon the department shall be sufficient service upon the licensee. A process or pleading served upon the department under this section shall be in duplicate. The department shall immediately serve by first-class mail a copy of the process or pleading to the licensee's last known address as determined by the records of the department.

(2) The department may issue a temporary permit, valid for 180 days, to a nonresident of this state who

holds a valid license from another state or United States jurisdiction licensing or regulating appraisers and is temporarily in this state to conduct an appraisal involving a federally related transaction or a real estate related financial transaction. The application shall be accompanied by proof of licensure or regulation in the other state or jurisdiction, a consent to the service of process as described in subsection (1), and a written description of the nature of the temporary assignment. The holder of a temporary permit may apply in writing for 1 extension of the temporary permit for not more than 180 days. The holder of a temporary permit is not required to complete continuing education.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

**Popular name:** Act 299

### **339.2627 Continuing education requirements.**

Sec. 2627. As a condition for the renewal of licensure as a limited real estate appraiser, a certified general real estate appraiser, a certified residential real estate appraiser, or a state licensed real estate appraiser, a licensee shall complete the minimum continuing education requirements described in the AQB criteria.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

**Popular name:** Act 299

### **339.2629 Repealed. 2009, Act 178, Imd. Eff. Dec. 15, 2009.**

**Compiler's note:** The repealed section pertained to relicensure of individual whose license as a certified general real estate appraiser, certified residential real estate appraiser, or state licensed real estate appraiser has lapsed.

### **339.2631 Repealed. 1990, Act 269, Eff. Dec. 31, 1991.**

**Compiler's note:** The repealed section pertained to temporary license for real estate appraisers.

**Popular name:** Act 299

### **339.2633 Duties of licensee.**

Sec. 2633. A licensee shall do all of the following:

(a) Include, in any appraisal or report provided to a client, the following statement: "Appraisers are required to be licensed and are regulated by the Michigan Department of Labor and Economic Growth, P.O. Box 30018, Lansing, Michigan 48909."

(b) Maintain an actual place of business whose address shall be used as the licensee address and in all advertising.

(c) Maintain a system of books and records open to the department upon request during normal business hours. The books and records shall be maintained in accordance with the uniform standards of professional appraisal practice, the requirements of this article, and any requirements imposed by rules promulgated under this article. The books and records shall show all appraisals undertaken by name of client and the address or description of the property appraised. In addition, applicants for licensure as a state licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser must also provide an appraisal log that includes, at a minimum, the documentation or data required to be kept under the AQB criteria.

(d) Advertise only the services authorized to be rendered according to the type of license issued and only in the name and address under which the individual is licensed. The licensee shall indicate on every appraisal report the license number and level of licensure.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

**Popular name:** Act 299

### **339.2635 Prohibited conduct; penalties; complaint.**

Sec. 2635. (1) Except as otherwise provided in subsection (2), a licensee who does 1 or more of the following is subject to the penalties set forth in article 6:

(a) Violates any of the standards for the development and communication of real property appraisals as provided in this article or a rule promulgated under this article.

(b) Fails or refuses without good cause to exercise reasonable diligence in developing or communicating an appraisal.

(c) Demonstrates incompetence in developing or communicating an appraisal.

(d) Fails to make available to the department on request or fails to maintain books and records required under this article.

(e) Performs, attempts to perform, or offers to perform appraisal services for which the individual is not

licensed under this article.

(f) Aids or abets another to commit a violation of this act or the rules promulgated under this act.

(g) Uses the license of another individual or knowingly allows another individual to use his or her license.

(h) If a limited real estate appraiser fails to disclose to the client, before making an appraisal, that the licensee's appraisal cannot be used in a federally related transaction.

(i) Develops and communicates, in violation of the standards adopted under this article, 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 intended user's doing either or both of the following:

(i) Setting preconditions on the outcome of the appraisal as a prerequisite for being selected to develop and communicate an appraisal or for obtaining future appraisal work. As used in this subparagraph, "setting preconditions on the outcome of an appraisal" does not include the communication of information, including documents related to the property being appraised, necessary to identify the valuation problem to be solved and the scope of work necessary to determine credible assignment results.

(ii) Representing or implying that payment for the development and communication of the appraisal is predicated on attaining a desired minimum appraised value.

(2) An individual licensed under this article who violates subsection (1)(i) is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both.

(3) A complaint under article 5 that seeks a penalty for a violation of this section must be filed within 18 months after 1 of the following dates, whichever occurs later:

(a) The date of the alleged violation.

(b) If the alleged violation occurs in connection with the performance of an appraisal, the delivery of the appraisal to the client.

(c) If the alleged violation occurs 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.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006;—Am. 2008, Act 531, Imd. Eff. Jan. 13, 2009;—Am. 2018, Act 157, Eff. Aug. 21, 2018.

**Popular name:** Act 299

### **339.2636 Sanctions taken by another state.**

Sec. 2636. (1) A sanction against an individual licensed under this article in this state by another state or jurisdiction may be grounds for disciplinary action in this state if the offense is substantially similar to a violation of this act or rules promulgated under this act.

(2) A licensee shall report to the department sanctions taken by another state or jurisdiction against his or her appraisal license issued by that other state within 30 days after the final order imposing disciplinary action.

**History:** Add. 1999, Act 170, Imd. Eff. Nov. 10, 1999.

**Popular name:** Act 299

### **339.2637 List of licensees; remittance of fee.**

Sec. 2637. Not less than monthly, the department shall compile a list of certified general real estate appraiser, certified residential real estate appraiser, and state licensed real estate appraiser licensees 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 for each year the individual is licensed under section 38 of the state license fee act, 1979 PA 152, MCL 338.2238.

**History:** Add. 1990, Act 269, Eff. July 1, 1991;—Am. 1999, Act 170, Imd. Eff. Nov. 10, 1999;—Am. 2006, Act 414, Imd. Eff. Sept. 29, 2006.

**Popular name:** Act 299