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SFA



BILL ANALYSIS

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Senate Bill 513 (Substitute S-2 as passed by the Senate)
Senate Bill 514 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Leon Stille
Committee: Local, Urban and State Affairs

Date Completed: 8-31-99

RATIONALE

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. The Subcommittee monitors the certification and licensure programs for real estate appraisers in each state to determine whether a state's policies, practices, and procedures are consistent with Title XI, and enforces a state's compliance with Title XI. Title XI requires that state certified real estate appraisers perform all appraisals in connection with transactions of more than \$1 million and complex one- to four-family residential properties in which loans are made through Federally regulated financial institutions, such as banks subject to the Federal Deposit Insurance Corporation (FDIC). (State licensed appraisers may appraise one- to four-family residential property if the complexity and size do not require a State certified appraiser.) For the protection of Federal financial and public policy interests in real estate transactions, Title XI requires that real estate appraisals be performed by persons who meet certain levels of competency as promulgated in Federal rules.

In Michigan, Public Act 269 of 1990 added Article 26 to the Occupational Code in order to bring the State into compliance with FIRREA. Article 26 provides for the licensure of real estate appraisers as an independent occupation, distinguishes among the various classifications of appraisers, and creates the Board of Real Estate Appraisers. Since Public Act 269 took effect July 1, 1991, the Federal rules that implement FIRREA have been revised, but Article 26 has not been updated. In order that appraisers in Michigan may continue to appraise property financed through Federally regulated financial institutions, it has been suggested that Article 26 be brought into conformity with the Federal standards.

CONTENT

Senate Bill 513 (S-2) would amend Article 26 (Real Estate Appraisers) of the Occupational Code to:

- Establish requirements for the licensure of

a "certified residential real estate appraiser".

- Revise current education and experience licensure requirements that apply to a certified real estate appraiser and a real estate valuation specialist, and specify that these requirements would apply, instead, to a "certified general real estate appraiser" and a "limited real estate appraiser", respectively.
- Revise the licensure requirements for a State licensed real estate appraiser.
- Include certified general and certified residential real estate appraisers on the Board of Real Estate Appraisers.
- Increase the number of continuing education hours required for license renewals.
- Require every appraisal report to indicate the license number and level of licensure of the appraiser.
- Allow the temporary licensure of out-of-State appraisers.
- Specify that a sanction by another state or jurisdiction against an appraiser licensed in Michigan could be grounds for disciplinary action in this State.

Senate Bill 514 (S-1) would amend the State License Fee Act to establish fees for a person licensed or seeking licensure as a certified residential real estate appraiser; and to establish a fee for a temporary license.

The bills are tie-barred to each other.

Senate Bill 513 (S-2)

Certified Residential Real Estate Appraiser

The Department of Consumer and Industry Services (DCIS) would be required to license as a certified residential real estate appraiser a person who demonstrated, to the Department's satisfaction, that he or she possessed at least 2,500 hours of

experience meeting the Code's standards in appraising real property, including at least 2,000 hours in appraising residential real property, completed over 24 or more months. Acceptable experience would include, but would not be limited to, the following in compliance with any applicable Federal standards: fee and staff appraisal, ad valorem tax appraisal, technical review appraisal, appraisal analysis, real estate consulting, highest and best use analysis, feasibility analysis or study, condemnation appraisal, and market analysis.

The person also would have to demonstrate that he or she had completed at least 120 classroom hours of courses meeting the standards of the Code and emphasizing all types and values of residential real property appraisals. An applicant could apply the classroom hours used to obtain a prior real estate appraiser license toward the requirement of 90 classroom hours used to obtain licensure as a certified residential real estate appraiser. The remaining classroom hours would have to relate to the appraisal of residential real property or address both residential and commercial real property. The courses would have to cover all of the following topics: influences on real estate value, legal considerations in appraisal, types of value, economic principles of appraisal, real estate markets and analysis, valuation process, property description, highest and best use analysis, appraisal math and statistics, sales comparison approach, site value, cost approach, income approach, valuation of partial interests, the Uniform Standards of Professional Appraisal Practice and Ethics, and narrative report writing.

In addition, the person would have to demonstrate that he or she had passed an examination as required in the Code, was of good moral character, and was at least 18 years of age.

The bill would permit a person licensed as a certified residential real estate appraiser to 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 FIRREA (transactions requiring the services of a State certified appraiser, and transactions requiring the services of a State licensed appraiser), real estate related financial transactions, and any non-Federally related transaction for which the licensee was qualified.

"Certified residential real estate appraiser" would mean an individual who was licensed under the Code 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, non-Federally related

transaction for which the person was qualified. The bill would delete the current definition of "real property related financial transaction" and reinstate it as the definition of "real estate related financial transaction", which would mean any of the following: a sale, lease, purchase, investment in, or exchange of real property or the financing of real property; a refinancing of real property; or, the use of real property as security for a loan or investment, including mortgage-backed securities.

Certified General Real Estate Appraiser

The Code establishes license requirements for a State certified real estate appraiser. Under the bill, the requirements would apply to a certified general real estate appraiser. Currently, a person licensed as a State certified real estate appraiser may perform the appraisal of real property of any type or value, including appraisals required for Federally related transactions. Under the bill, this would apply to a certified general real estate appraiser, who also could conduct appraisals required for real estate related financial transactions.

The bill would increase the hours of required experience from 2,000 to 3,000, and would require that at least 1,500 hours, instead of the current 1,000 hours, be in appraising nonresidential real property. The hours of experience would have to be completed over at least 30 months preceding application for licensure. The bill also would revise specifications of acceptable experience to include technical review appraisal, real estate consulting, and condemnation appraisal. Acceptable experience would have to comply with any applicable Federal standards.

The bill would increase from 165 clock hours to 180 classroom hours the required time in courses emphasizing all types and values of real property appraisals. Currently, an applicant may apply 75 clock hours used to obtain licensure as a State licensed real estate appraiser toward the requirement of 165 clock hours. Under the bill, an applicant could apply 90 classroom hours used to obtain a prior appraiser license toward the 180 classroom hours required. In addition to the topics that presently must be covered, the courses would have to include narrative report writing.

A person seeking licensure also would have to be of good moral character and be at least 18 years of age.

"Certified general real estate appraiser" would mean an individual who was licensed under the Code to appraise all types of real property, including nonresidential real property involving Federally related transactions and real estate related financial transactions.

State Licensed Real Estate Appraiser

Currently, an individual seeking licensure as a State licensed real estate appraiser must demonstrate the completion of at least 75 clock hours of classroom courses emphasizing the appraisal of residential real property, and possess at least 2,000 hours of experience in appraising residential real property. Under the bill, an individual would have to demonstrate that he or she had completed at least 90 classroom hours of courses emphasizing the appraisal of residential real property. The bill would retain the requirement of at least 2,000 hours of experience, but would require that at least 1,500 of those hours be in appraising residential real property and be completed over 24 or more months.

The Code lists the categories of acceptable experience, which include review appraisal, real estate counseling, and teaching of appraisal courses. The bill would refer to technical review appraisal and real estate consulting, would delete teaching, and would include condemnation appraisal. The acceptable experience would have to comply with any applicable Federal standards.

The bill also would require the individual to be at least 18 years of age.

Currently, an individual licensed as a State licensed real estate appraiser may perform the appraisal of residential real property and any other appraisal required for a Federally related transaction for which a State licensed real estate appraiser is authorized under Title IX of FIRREA (noncomplex one- to four-family residential appraisals, and transactions not requiring the services of a State certified appraiser). The bill provides that an individual licensed as a State licensed real estate appraiser could 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 IX of FIRREA, real estate related financial transactions, and any non-Federally related transaction for which the licensee was qualified.

"State licensed real estate appraiser" currently means an individual who is licensed under the Code to appraise real property, including, but not limited to, residential real property involving Federally related transactions. Under the bill, a State licensed appraiser could appraise both residential and nonresidential real property involving Federally related transactions and real estate related financial transactions.

Limited Real Estate Appraiser

The Code currently establishes licensing criteria for a real estate valuation specialist, including

requirements that a person have at least 2,000 hours of experience in appraising real property and complete 40 clock hours of classroom courses related to developing and communicating appraisals of real property. The bill would provide, instead, for the licensure of a limited real estate appraiser and would require the person to be at least 18 years of age and provide proof of having completed at least 75 classroom hours of courses related to developing and communicating appraisals of real property. The bill would delete the requirement of 2,000 hours of experience.

Beginning on the bill's effective date, the Department could not accept an application for a real estate valuation specialist. The DCIS would have to convert licenses for real estate valuation specialists to limited real estate appraiser licenses upon the next license renewal cycle.

Currently, a person licensed as a real estate valuation specialist may perform only those appraisals not involving Federally related transactions. Under the bill, a person licensed as a limited real estate appraiser or a real estate valuation specialist could 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. An appraisal would have to contain the supervisory signature of the State licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser and also would have to contain the signature of the real estate valuation specialist or limited real estate appraiser only where the appraisal was performed by the real estate valuation specialist or limited real estate appraiser under these provisions.

"Limited real estate appraiser" would mean an individual licensed under the Code to perform appraisals of real property not involving real estate related financial transactions or Federally related transactions that require the services of a State licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser. "Real estate valuation specialist" currently means an individual licensed under the Code to perform appraisals of real property not involving Federally related transactions. Under the bill, the term would have the same meaning as "limited real estate appraiser".

Appraisers Board

The Code provides for the creation of the Board of Real Estate Appraisers, of which four of the members must be State certified real estate appraisers. Under the bill, three members would have to be certified general real estate appraisers

and one would have to be a certified residential real estate appraiser. As currently provided, two would have to be State licensed real estate appraisers.

Under the Code, licensees must use the Uniform Standards of Professional Appraisal Practice, and the Board may supplement or adopt by reference amendments to these standards. The bill would permit the Director of the DCIS to supplement or amend the standards, if he or she determined that the amendments or supplemental standards did not conflict with Federal requirements.

Representation

The bill would prohibit a person from acting or offering to act as an appraiser unless licensed under Article 26 or exempt from licensure under Article 26.

The Code prohibits a person from representing himself or herself as a State licensed real estate appraiser, a State certified real estate appraiser, or a real estate valuation specialist unless he or she is licensed in the appropriate category. Under the bill, a person also could not represent himself or herself as a certified residential real estate appraiser or a limited real estate appraiser unless he or she were licensed as appropriate.

Educational Courses

The Code permits the Board of Real Estate Appraisers to promulgate rules regulating the offering of educational courses, prescribes the number of clock hours required for various educational courses, and specifies that a clock hour is at least 50 minutes. The bill would permit the DCIS Director, instead, to promulgate rules regulating courses and would refer to courses in classroom hours, which would be at least 50 minutes in length.

Currently, courses may be offered by an institution of higher education or a private school licensed by the Department of Education. Under the bill, a private school authorized to operate in any other state or jurisdiction also could offer educational courses.

The bill would delete current provisions that prohibit precursure courses from being used to fulfill continuing education requirements and that prohibit continuing education courses from being used to fulfill precursure requirements. The bill states, instead, that courses taken to satisfy the qualifying education requirements should not be repetitive in nature and should represent a progression in which the appraiser's knowledge was increased, as determined by the DCIS and the Board.

Written Examination and Experience

The Code provides that a person seeking licensure

as a State licensed or certified real estate appraiser must pass a written examination that is acceptable to the Board and the DCIS and covers subjects outlined in the Code. The bill would require a person seeking licensure as a State licensed real estate appraiser, a certified general real estate appraiser, or a certified residential real estate appraiser to pass a uniform real estate appraiser examination or its equivalent as appropriate to the level of licensure sought, that was endorsed by the appraiser qualification board and acceptable to the DCIS and the Board of Real Estate Appraisers. The bill would delete the specific subjects to be covered in the exam. Currently, the Board and the Department may adopt an examination prepared or approved by a professional entity or organization. The bill specifies that this would include, but not be limited to, the appraisal qualification board. The bill also provides that examination scores would be considered valid for three years from the examination date.

The bill would delete the requirement that experience required of applicants for licensure be obtained at any time before they sit for the examination required of license applicants. Currently, the experience must consist of at least 2,000 hours of appraisal experience obtained over not less than two calendar years. The bill would require, instead, that the experience consist of at least the required number of hours of appraisal experience obtained over at least the required number of months. The bill also would delete the requirement that the experience be obtained while the applicant was an appraiser, a manager of an appraisal firm or department, or an instructor of courses meeting the requirements for precursure courses under Article 26.

License Without Exam, Nonresidents

The Department is required to issue a State certified or State licensed real estate appraiser license without examination to a person 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 are at least equal to the Code's requirements. The bill would require the State to issue a certified general real estate appraiser license, a certified residential real estate appraiser license, or a State licensed real estate appraiser license, without exam, under the same circumstances.

Under the Code, a nonresident of this State may become licensed by conforming with Article 26. The bill also provides that the Department could issue a temporary license, valid for 180 days, to a nonresident of the State who held a valid license from another state or United States jurisdiction licensing or regulating appraisers and was temporarily in this State to conduct an appraisal involving a Federally related transaction or a real

estate related financial transaction. The application would have to be accompanied by proof of licensure in the other state or jurisdiction, a consent to service of process, and a written description of the nature of the temporary assignment. The holder of a temporary permit could apply in writing for one extension of the temporary permit for up to 180 days, and would not be required to complete continuing education.

License Renewal

Under the Code, as a condition for the renewal of licensure as a State certified real estate appraiser, a State licensed real estate appraiser, or a real estate valuation specialist, a licensee must complete 10 clock hours of continuing education for each year since his or her last renewal. The bill, instead, would require a certified general real estate appraiser, a certified residential real estate appraiser, a State licensed real estate appraiser, a real estate valuation specialist, or a limited real estate appraiser to complete 14 classroom hours of continuing education for each year since the expiration of his or her previous license.

Under the bill, a course covering the Uniform Standards of Professional Appraisal Practice would have to be completed as part of the continuing education requirement every third licensing period.

The bill would delete provisions specifying the focus of continuing education for licensed or certified residential and nonresidential real estate appraisers. The bill also would delete provisions that prohibit continuing education requirements for license renewal from being applied to the requirements for initial licensure and that prohibit courses taken under the initial licensure requirements from being applied toward continuing education requirements.

A person who had completed continuing education for the renewal of an appraiser license in another state or jurisdiction could submit proof of the acceptance of that continuing education by that state as evidence of meeting the continuing education requirements in Michigan.

Appraisal Records

The Code requires a licensee, among other things, to maintain a system of books and records to show all appraisals undertaken by name of client, address or description of the property appraised, and the name of the property owner. The bill would delete reference to the property owner's name. The bill also would require applicants for licensure as a State licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser to provide an appraisal log that included, at a minimum, the following for each

appraisal: type of property, date of report, address of appraised property, description of work performed, and number of work hours. A licensee would have to indicate on every appraisal report the license number and level of licensure.

DCIS Report

Currently, the Department must compile at least yearly a list of licensees under Article 26 and provide it to the Federal Financial Institutions Examination Council. The bill would require the list to be compiled at least monthly, require that the list include licensees who were certified general real estate appraisers, certified real estate appraisers, and State licensed real estate appraisers, and specify that the list would have to be provided to the Examination Council's Appraisal Subcommittee. In addition, the bill would require the DCIS to remit the appropriate fee for each year the individual was licensed under the State License Fee Act.

Violations

Under the Code, a licensee who commits one or more specified violations is subject to penalties set forth in Article 6 (Violations and Penalties) of the Code. The bill would add the following to the violations: aiding or abetting another to commit a violation of the Code or the rules promulgated under it, and using the license of another person or knowingly allowing another person to use the licensee's license.

The bill provides that a sanction by another state or jurisdiction against a person licensed in Michigan under Article 26 could be grounds for disciplinary action in this State if the offense were substantially similar to a violation of the Code or rules promulgated under it. A licensee would have to 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.

Senate Bill 514 (S-1)

The bill would establish the following fees for a person licensed or seeking licensure as a certified residential real estate appraiser: \$25 for application processing; \$100 for examination, if the DCIS conducted its own examination; and \$175 for a yearly license fee. The bill would refer to a limited real estate appraiser, instead of a real estate valuation specialist, and a certified general real estate appraiser, instead of a State certified real estate appraiser. The annual license for a limited real estate appraiser would be \$125, rather than the \$175 that applies to real estate valuation specialists. The bill also would set a \$125 fee for a temporary permit.

The Act specifies that the license fee for real estate appraisers includes a fee imposed by the Federal government under FIRREA, which cannot exceed \$50 per license and which the DCIS collects and pays to the Federal government. The bill specifies that this fee would apply to certified general real estate appraisers, certified residential real estate appraisers, and State licensed real estate appraisers.

MCL 339.2601 et al. (S.B. 513)
338.2202 et al. (S.B. 514)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Financial Institutions Reform, Recovery, and Enforcement Act was enacted in 1989 in response to the national saving and loan crisis in order to address problems in that industry that allegedly were due to inadequate appraisal work in Federally related transactions. Consequently, persons who conduct appraisals for home loans granted through the U.S. Department of Housing and Urban Development or the Veterans' Administration, for example, as well as Federally regulated financial institutions must meet the Federal standards. In order for appraisers in Michigan to be eligible to evaluate property that was eligible for Federally assisted financing, Public Act 269 of 1990 was enacted to establish appraiser licensure requirements that complied with the Federal law. Since then, Federal rules addressing licensure requirements have been revised. Public Act 269, however, still reflects the original licensing requirements promulgated under FIRREA.

According to officials at the Department of Consumer and Industry Services, the State in the past has been able to negotiate with Federal officials agreements on Michigan's appraiser certification system. Currently, the DCIS is working with Federal officials on an agreement to demonstrate that appraisers certified on or after January 1, 1998, meet the revised Federal requirements, which took effect on that date. There is concern, however, that if Article 26 is not updated to reflect current Federal requirements, more than 5,000 appraisers in the State will not be eligible to appraise property in sales transactions in which loans are to be obtained from financial institutions regulated by the Federal government. This could have a significant impact on the sale of residential and commercial property in the State. To avoid that situation, Senate Bill 513 (S-2) would align Michigan's appraiser certification requirements with Federal standards. In addition, Senate Bill 514 (S-1) would establish fees for licensure as a certified residential real estate appraiser, which would reflect the revisions of the

appraiser categories proposed in Senate Bill 513 (S-2).

Legislative Analyst: L. Arasim

FISCAL IMPACT

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

Fiscal Analyst: M. Tyszkiewicz

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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.