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Senate Bill 513 (as enrolled)
Senate Bill 514 (as enrolled)
Sponsor: Senator Leon Stille
Senate Committee: Local, Urban and State Affairs
House Committee: Regulatory Reform

PUBLIC ACT 170 of 1999
PUBLIC ACT 171 of 1999

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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 were revised, but Article 26 had not been updated. In order to enable appraisers in Michigan to continue appraising property financed through Federally regulated financial institutions, it was suggested that Article 26 be brought into conformity with the Federal standards.

CONTENT

Senate Bill 513 amended Article 26 (Real Estate

Appraisers) of the Occupational Code to:

- Establish requirements for the licensure of a "certified residential real estate appraiser".
- Revise education and experience licensure requirements that had applied to a certified real estate appraiser and a real estate valuation specialist, and specify that these requirements 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 may be grounds for disciplinary action in this State.

Senate Bill 514 amended 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 were tie-barred to each other.

Senate Bill 513

Certified Residential Real Estate Appraiser

The bill requires the Department of Consumer and Industry Services (DCIS) to license as a certified residential real estate appraiser a person who

demonstrates, to the Department's satisfaction, that he or she possesses 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 includes, but is not 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 must demonstrate that he or she has 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 may 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 must relate to the appraisal of residential real property or address both residential and commercial real property. The courses must 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 must demonstrate that he or she has passed an examination as required in the Code, is of good moral character, and is at least 18 years of age.

The bill permits 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 is qualified.

The bill defines "certified residential real estate appraiser" as an individual who is 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 is qualified. The bill deleted the former definition of "real property related financial transaction" and reinstated it as the definition of "real estate related financial transaction", which means 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

Under the bill, the previous license requirements for a State certified real estate appraiser apply to a certified general real estate appraiser. As previously permitted for a licensed State certified real estate appraiser, 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. Under the bill, a certified general real estate appraiser also may conduct appraisals required for real estate related financial transactions.

The bill increased the hours of required experience from 2,000 to 3,000, and requires that at least 1,500 hours, instead of the previous 1,000 hours, be in appraising nonresidential real property. The hours of experience must be completed over at least 30 months preceding application for licensure. The bill also includes in acceptable experience technical review appraisal, real estate consulting, and condemnation appraisal. Acceptable experience must comply with any applicable Federal standards.

The bill increased from 165 clock hours to 180 classroom hours the required time in courses emphasizing all types and values of real property appraisals. Previously, an applicant could 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 may apply 90 classroom hours used to obtain a prior appraiser license toward the 180 classroom hours required. In addition to the topics that already had to be covered, the courses must include narrative report writing.

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

The bill defines “certified general real estate appraiser” as an individual who is 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

Previously, an individual seeking licensure as a State licensed real estate appraiser had to 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 must demonstrate that he or she has completed at least 90 classroom hours of courses emphasizing the appraisal of residential real property. The bill retains the requirement of at least 2,000 hours of experience, but requires that at least 1,500 of those hours be in appraising residential real property.

The Code’s list of acceptable experience had included review appraisal, real estate counseling, and teaching of appraisal courses. The bill refers, instead, to technical review appraisal and real estate consulting. The bill deleted teaching, and includes condemnation appraisal. The acceptable experience must comply with any applicable Federal standards.

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

Previously, an individual licensed as a State licensed real estate appraiser could 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 was 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, instead, that 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 IX of FIRREA, real estate related financial transactions, and any non-Federally related transaction for which the licensee is qualified.

“State licensed real estate appraiser” previously meant an individual who was 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 may appraise both residential and nonresidential real property involving Federally related transactions and real estate related financial transactions.

Limited Real Estate Appraiser

The Code had established 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 provides, instead, for the licensure of a limited real estate appraiser and requires 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 deleted the requirement of 2,000 hours of experience.

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

Previously, a person licensed as a real estate valuation specialist could 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 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. An 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 also must contain the signature of the real estate valuation specialist or limited real estate appraiser only where the appraisal is performed by the real

estate valuation specialist or limited real estate appraiser under these provisions.

The bill defines "limited real estate appraiser" as 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" previously meant an individual licensed under the Code to perform appraisals of real property not involving Federally related transactions. Under the bill, the term has the same meaning as "limited real estate appraiser".

Appraisers Board

The Code provides for the creation of the Board of Real Estate Appraisers. Previously, four of the members had to be State certified real estate appraisers. Under the bill, three members must be certified general real estate appraisers and one must be a certified residential real estate appraiser. Two still must be State licensed real estate appraisers.

Under the Code, licensees must use the Uniform Standards of Professional Appraisal Practice. Previously, the Board could supplement or adopt by reference amendments to these standards. The bill permits the Director of the DCIS to supplement or amend the standards, if he or she determines that the amendments or supplemental standards do not conflict with Federal requirements.

Representation

The bill prohibits 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 had prohibited 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 was licensed in the appropriate category. Under the bill, a person may not represent himself or herself as a state licensed real estate appraiser, a certified general real estate appraiser, a certified residential real estate appraiser, a limited real estate appraiser, or a real estate valuation specialist unless he or she is licensed as appropriate.

Educational Courses

The Code had permitted the Board of Real Estate Appraisers to promulgate rules regulating the offering of educational courses, prescribed the number of clock hours required for various educational courses, and specified that a clock hour was at least 50

minutes. The bill permits the DCIS Director, instead, to promulgate rules regulating courses and refers to courses in classroom hours, which must be at least 50 minutes in length.

Under the Code, 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 may offer educational courses.

The bill deleted provisions that prohibited prelicensure courses from being used to fulfill continuing education requirements and that prohibited continuing education courses from being used to fulfill prelicensure requirements. The bill states 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 is increased, as determined by the DCIS and the Board.

Written Examination and Experience

The Code had provided that a person seeking licensure as a State licensed or certified real estate appraiser was required to pass a written examination that was acceptable to the Board and the DCIS and covered subjects outlined in the Code. The bill requires 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 is endorsed by the appraiser qualification board and acceptable to the DCIS and the Board of Real Estate Appraisers. The bill deleted the specific subjects to be covered in the exam. The Code permits the Board and the Department to adopt an examination prepared or approved by a professional entity or organization. The bill specifies that this must include, but not be limited to, the appraisal qualification board. The bill also provides that examination scores are considered valid for three years from the examination date.

The bill deleted the requirement that experience required of applicants for licensure be obtained at any time before they sat for the examination required of license applicants. Previously, the experience had to consist of at least 2,000 hours of appraisal experience obtained over not less than two calendar years. The bill requires, 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 deleted 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 prelicensure

courses under Article 26.

License Without Exam, Nonresidents

The Code had required the Department to issue a State certified or State licensed real estate appraiser license without examination to a person who, at the time of application, was licensed, registered, certified, or otherwise regulated by another state at that level if the requirements of that state were at least equal to the Code's requirements. The bill requires 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 may issue a temporary license, valid for 180 days, to a nonresident of the 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 must 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 may apply in writing for one extension of the temporary permit for up to 180 days, and is not required to complete continuing education.

License Renewal

Previously, 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 had to have completed 10 clock hours of continuing education for each year since his or her last renewal. The bill, instead, requires 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 must be completed as part of the continuing education requirement every third licensing period.

The bill deleted provisions specifying the focus of continuing education for licensed or certified residential and nonresidential real estate appraisers. The bill also deleted provisions that prohibited continuing education requirements for license

renewal from being applied to the requirements for initial licensure and that prohibited courses taken under the initial licensure requirements from being applied toward continuing education requirements. Under the bill, a person who has completed continuing education for the renewal of an appraiser license in another state or jurisdiction may 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. The bill deleted a requirement that the books and records include the property owner's name. The bill also requires 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 includes, 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 must indicate on every appraisal report the license number and level of licensure.

DCIS Report

The Department previously was required to compile at least yearly a list of licensees under Article 26 and provide it to the Federal Financial Institutions Examination Council. The bill requires the list to be compiled at least monthly, requires that the list include licensees who are certified general real estate appraisers, certified real estate appraisers, and State licensed real estate appraisers, and specifies that the list must be provided to the Examination Council's Appraisal Subcommittee. In addition, the bill requires the DCIS to remit the appropriate fee for each year the individual is 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 added 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 may be grounds for disciplinary action in this State if the offense is substantially

similar to a violation of the Code or rules promulgated under it. Also, a licensee must 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

The bill established 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 conducts its own examination; and \$175 for a yearly license fee. The bill refers 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 is \$125, rather than the \$175 that applies to real estate valuation specialists. The bill also 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 applies 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 enacted Article 26 to establish appraiser licensure requirements that complied with the Federal law. Since then, Federal rules addressing

licensure requirements were revised. Article 26, however, still reflected 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. Although the DCIS was working with Federal officials on an agreement to demonstrate that appraisers certified on or after January 1, 1998, met the revised Federal requirements (which took effect on that date), there was concern that if Article 26 was not updated to reflect current Federal requirements, more than 5,000 appraisers in the State would 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 had a significant impact on the sale of residential and commercial property in the State. To avoid that situation, Senate Bill 513 aligned Michigan's appraiser certification requirements with Federal standards. In addition, Senate Bill 514 established fees for licensure as a certified residential real estate appraiser, which reflect the revisions of the appraiser categories in Senate Bill 513.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bills will 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.