

Act No. 414
Public Acts of 2006
Approved by the Governor
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**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senators George and Cassis

ENROLLED SENATE BILL No. 1016

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 2601, 2605, 2607, 2617, 2619, 2627, 2633, 2635, and 2637 (MCL 339.2601, 339.2605, 339.2607, 339.2617, 339.2619, 339.2627, 339.2633, 339.2635, and 339.2637), as amended by 1999 PA 170, and by adding section 2610; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

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 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 licensed under article 25 which does not involve a federally related transaction if the market analysis is put in writing and it states in boldface 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.". Failure to do so results in the individual being subject to the penalties set forth in article 6.

(iii) An assessment of the value of real property performed on behalf of a local unit of government authorized to impose property taxes when performed by an assessor 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 the criteria established by the appraiser qualifications board of the appraisal foundation or as adopted by rule of the director. Until January 1, 2008, AQB criteria means the criteria entitled "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria", adopted by the appraiser qualifications board on February 16, 1994, effective January 1, 1998, and as revised and effective January 1, 2003. Beginning January 1, 2008, AQB criteria means the criteria entitled "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria", adopted by the appraiser qualifications board on February 20, 2004, effective January 1, 2008.

(c) "Appraiser" means an individual 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 meeting the AQB criteria for appraiser trainee and licensed under section 2610 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, certified residential real estate appraiser, or certified general real estate appraiser.

(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 those standards relating to real property adopted by the appraisal foundation on March 31, 1999, or as adopted by rule of the director.

Sec. 2605. (1) At a minimum and subject to subsection (2), licensees under this article shall utilize the uniform standards of professional appraisal practice.

(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. The AQB criteria are adopted by reference. The department may, by promulgation of a rule by the director, supplement or amend the standards by adoption of a stricter standard that is otherwise in compliance with the minimum AQB criteria in effect or by adoption of subsequent amendments to that standard adopted by the appraiser qualification board of the appraisal foundation.

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.

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.

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.

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.

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.

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.

Sec. 2635. A licensee who does 1 or more of the following shall be 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 pursuant to 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 upon 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.

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.

Enacting section 1. Sections 2611, 2613, 2614, 2615, and 2621 of the occupational code, 1980 PA 299, MCL 339.2611, 339.2613, 339.2614, 339.2615, and 339.2621, are repealed.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor