

HOUSE BILL No. 4975

September 14, 2011, Introduced by Rep. O'Brien and referred to the Committee on
Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
(MCL 339.101 to 339.2919) by adding article 26A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE 26A

SEC. 2661. AS USED IN THIS ARTICLE:

(A) "APPRAISAL" MEANS THAT TERM AS DEFINED IN SECTION 2601.

(B) "APPRAISAL MANAGEMENT COMPANY" OR "COMPANY" MEANS A PERSON
THAT DOES BOTH OF THE FOLLOWING:

(i) ADMINISTERS A NETWORK OF INDEPENDENT APPRAISERS, RECEIVES
REQUESTS FOR APPRAISALS FROM CLIENTS, AND RECEIVES A FEE PAID BY
THE CLIENT FOR THE APPRAISALS.

(ii) ENTERS INTO AN AGREEMENT WITH 1 OR MORE INDEPENDENT
APPRAISERS IN ITS NETWORK TO PERFORM THE APPRAISALS CONTAINED IN

1 THE REQUEST DESCRIBED IN SUBPARAGRAPH (i) .

2 (C) "APPRAISER" MEANS THAT TERM AS DEFINED IN SECTION 2601.

3 (D) "EMPLOYEE" MEANS AN INDIVIDUAL WHO HAS AN EMPLOYMENT
4 RELATIONSHIP ACKNOWLEDGED BY BOTH THE INDIVIDUAL AND THE COMPANY
5 AND IS TREATED AS AN EMPLOYEE FOR PURPOSES OF COMPLIANCE WITH
6 FEDERAL INCOME TAX LAWS.

7 (E) "INDEPENDENT APPRAISER" MEANS AN APPRAISER WHO IS NOT AN
8 EMPLOYEE OF AN APPRAISAL MANAGEMENT COMPANY.

9 (F) "LICENSED REAL ESTATE APPRAISER" MEANS A STATE LICENSED
10 REAL ESTATE APPRAISER, AS THAT TERM IS DEFINED IN SECTION 2601.

11 (G) "REAL PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION
12 2601.

13 (H) "TRANSACTION" MEANS A REAL ESTATE RELATED FINANCIAL
14 TRANSACTION, AS THAT TERM IS DEFINED IN SECTION 2601.

15 (I) "UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE"
16 MEANS THAT TERM AS DEFINED IN SECTION 2601.

17 SEC. 2663. THIS ARTICLE DOES NOT APPLY TO ANY OF THE
18 FOLLOWING:

19 (A) AN AGENCY OF THE FEDERAL GOVERNMENT OR A DEPARTMENT OR
20 AGENCY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

21 (B) A PERSON THAT EXCLUSIVELY EMPLOYS INDIVIDUALS ON AN
22 EMPLOYER AND EMPLOYEE BASIS FOR THE PERFORMANCE OF APPRAISALS IN
23 THE NORMAL COURSE OF ITS BUSINESS AND THAT IS RESPONSIBLE FOR
24 ENSURING THAT THE PERFORMANCE OF THOSE APPRAISALS MEET THE
25 REQUIREMENTS OF THIS ARTICLE, ARTICLE 26, AND THE UNIFORM STANDARDS
26 OF PROFESSIONAL APPRAISAL PRACTICE.

27 (C) A PERSON THAT HAS AS ITS PRIMARY BUSINESS THE DEVELOPMENT

1 OF APPRAISALS IN THIS STATE UNDER ARTICLE 26 AND THAT MEET THE
2 REQUIREMENTS OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL
3 PRACTICE.

4 (D) A PERSON THAT HAS AS ITS PRIMARY BUSINESS THE DEVELOPMENT
5 OF APPRAISALS IN THIS STATE BUT THAT IN THE NORMAL COURSE OF
6 BUSINESS ENTERS INTO AN AGREEMENT WITH AN INDEPENDENT CONTRACT
7 APPRAISER FOR THE PERFORMANCE OF APPRAISALS THAT THE CONTRACTING
8 ENTITY CANNOT COMPLETE EITHER BECAUSE OF THE LOCATION OR TYPE OF
9 REAL PROPERTY IN QUESTION.

10 (E) A REAL ESTATE BROKER LICENSED UNDER AND PERFORMING
11 ACTIVITIES AUTHORIZED BY ARTICLE 25.

12 (F) AN OFFICER OR EMPLOYEE OF A PERSON DESCRIBED IN
13 SUBDIVISION (B), (C), OR (D), IF HE OR SHE IS ACTING IN THE SCOPE
14 OF HIS OR HER EMPLOYMENT WITH THAT PERSON.

15 SEC. 2665. (1) AN APPRAISAL MANAGEMENT COMPANY SHALL NOT ENTER
16 INTO ANY CONTRACTS OR AGREEMENTS WITH AN INDEPENDENT APPRAISER FOR
17 THE PERFORMANCE OF RESIDENTIAL REAL ESTATE APPRAISAL SERVICES
18 UNLESS THE INDEPENDENT APPRAISER IS A LICENSED REAL ESTATE
19 APPRAISER.

20 (2) AN APPRAISAL MANAGEMENT COMPANY SHALL NOT PROHIBIT AN
21 APPRAISER FROM DISCLOSING IN AN APPRAISAL THE ACTUAL FEES CHARGED
22 BY THE APPRAISER FOR APPRAISAL SERVICES AND SHALL OTHERWISE COMPLY
23 WITH ANY APPLICABLE REQUIREMENTS OF FEDERAL LAW, INCLUDING, BUT NOT
24 LIMITED TO, ANY REQUIREMENTS FOR APPRAISALS ESTABLISHED BY THE
25 UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

26 (3) SUBJECT TO SUBSECTION (4), AN EMPLOYEE, DIRECTOR, OFFICER,
27 OR AGENT OF AN APPRAISAL MANAGEMENT COMPANY SHALL NOT INFLUENCE OR

1 ATTEMPT TO INFLUENCE THE DEVELOPMENT, REPORTING, RESULT, OR REVIEW
2 OF AN APPRAISAL THROUGH COERCION, EXTORTION, COLLUSION,
3 COMPENSATION, INDUCEMENT, INTIMIDATION, BRIBERY, OR IN ANY OTHER
4 MANNER, INCLUDING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

5 (A) WITHHOLDING OR THREATENING TO WITHHOLD TIMELY PAYMENT FOR
6 AN APPRAISAL.

7 (B) WITHHOLDING OR THREATENING TO WITHHOLD FUTURE BUSINESS
8 FROM AN APPRAISER OR DEMOTING OR TERMINATING OR THREATENING TO
9 DEMOTE OR TERMINATE AN APPRAISER.

10 (C) EXPRESSLY OR IMPLIEDLY PROMISING FUTURE BUSINESS,
11 PROMOTIONS, OR INCREASED COMPENSATION FOR AN APPRAISER.

12 (D) CONDITIONING AN ORDER FOR AN APPRAISAL OR THE PAYMENT OF
13 AN APPRAISAL FEE, SALARY, OR BONUS ON THE OPINION, CONCLUSION, OR
14 VALUATION TO BE REACHED OR ON A PRELIMINARY ESTIMATE REQUESTED FROM
15 AN APPRAISER.

16 (E) REQUESTING THAT AN APPRAISER PROVIDE AN ESTIMATED,
17 PREDETERMINED, OR DESIRED VALUATION IN AN APPRAISAL OR PROVIDE
18 ESTIMATED VALUES OR COMPARABLE SALES AT ANY TIME BEFORE THE
19 APPRAISER'S COMPLETION OF THE APPRAISAL.

20 (F) PROVIDING TO AN APPRAISER AN ANTICIPATED, ESTIMATED,
21 ENCOURAGED, OR DESIRED VALUE FOR A SUBJECT PROPERTY OR A PROPOSED
22 OR TARGETED AMOUNT OF A LOAN TO A BORROWER. HOWEVER, AN APPRAISER
23 MAY BE PROVIDED WITH A COPY OF THE SALES CONTRACT IN A PURCHASE
24 TRANSACTION.

25 (G) ALLOWING THE REMOVAL OF AN APPRAISER FROM A LIST OF
26 QUALIFIED APPRAISERS USED BY ANY PERSON WITHOUT PRIOR WRITTEN
27 NOTICE TO THE APPRAISER THAT INCLUDES WRITTEN EVIDENCE OF THE

1 APPRAISER'S ILLEGAL CONDUCT, SUBSTANDARD PERFORMANCE, OR OTHERWISE
2 IMPROPER OR UNPROFESSIONAL BEHAVIOR OR ANY VIOLATION OF THE UNIFORM
3 STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE OR LICENSING STANDARDS
4 FOR APPRAISERS UNDER ARTICLE 26.

5 (H) ENGAGING IN ANY OTHER ACT OR PRACTICE THAT IMPAIRS OR
6 ATTEMPTS TO IMPAIR AN APPRAISER'S INDEPENDENCE, OBJECTIVITY, OR
7 IMPARTIALITY.

8 (I) REQUESTING OR REQUIRING AN APPRAISER TO COLLECT A FEE FROM
9 A BORROWER, HOMEOWNER, OR ANY OTHER PERSON FOR PROVIDING APPRAISAL
10 SERVICES.

11 (J) ALTERING, MODIFYING, OR OTHERWISE CHANGING A COMPLETED
12 APPRAISAL SUBMITTED BY AN INDEPENDENT APPRAISER WITHOUT THE
13 APPRAISER'S WRITTEN KNOWLEDGE AND CONSENT.

14 (K) USING, OR HAVING THE APPRAISAL MANAGEMENT COMPANY USE, AN
15 APPRAISAL SUBMITTED BY AN INDEPENDENT APPRAISER FOR ANY OTHER
16 TRANSACTION, PURPOSE, OR USE OTHER THAN FOR THAT WHICH THE
17 APPRAISAL WAS PREPARED. HOWEVER, THIS SUBDIVISION DOES NOT PROHIBIT
18 AN APPRAISAL MANAGEMENT COMPANY FROM PROVIDING A COPY OF THE
19 APPRAISAL TO A FEDERAL AGENCY IN THE NORMAL COURSE OF BUSINESS OR
20 WHEN PROVIDING A COPY OF THE APPRAISAL IS OTHERWISE REQUIRED BY
21 LAW.

22 (L) REQUIRING AN APPRAISER TO SIGN AN INDEMNIFICATION AGREEMENT
23 THAT WOULD REQUIRE THE APPRAISER TO INDEMNIFY AND HOLD HARMLESS THE
24 APPRAISAL MANAGEMENT COMPANY OR ANY OF ITS AGENTS, EMPLOYEES, OR
25 INDEPENDENT CONTRACTORS FOR ANY LIABILITY, DAMAGE, LOSSES, OR
26 CLAIMS ARISING OUT OF THE SERVICES PERFORMED BY THE APPRAISAL
27 MANAGEMENT COMPANY OR ITS AGENTS, EMPLOYEES, OR INDEPENDENT

1 CONTRACTORS AND NOT THE SERVICES PERFORMED BY THE APPRAISER.

2 (M) REQUIRING AN APPRAISER TO PROVIDE THE COMPANY WITH THE
3 APPRAISER'S DIGITAL SIGNATURE OR SEAL.

4 (4) THIS SECTION DOES NOT PROHIBIT AN APPRAISAL MANAGEMENT
5 COMPANY FROM REQUESTING THAT AN APPRAISER DO ANY OF THE FOLLOWING
6 IN CONNECTION WITH THE DEVELOPMENT, REPORTING, RESULT, OR REVIEW OF
7 AN APPRAISAL:

8 (A) CONSIDER ADDITIONAL APPROPRIATE INFORMATION ABOUT THE REAL
9 PROPERTY.

10 (B) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION FOR
11 THE APPRAISER'S VALUE CONCLUSION.

12 (C) CORRECT ERRORS IN THE APPRAISAL.

13 SEC. 2667. A PERSON THAT VIOLATES SECTION 2665 IS SUBJECT TO
14 THE PENALTIES DESCRIBED IN ARTICLE 6.