



**House
Legislative
Analysis
Section**

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LICENSE REAL ESTATE APPRAISERS

House Bill 5335 (Substitute H-1)
Sponsor: Rep. Lloyd F. Weeks

House Bill 5439 (Substitute H-2)
Sponsor: Rep. Raymond M. Murphy
First Analysis (6-5-90)
Committee: State Affairs

THE APPARENT PROBLEM:

Public Law 101-73, the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) was signed into law in 1989 in response to the national savings and loan crisis. Among other things, FIRREA requires the establishment of an Appraisal Subcommittee in the Federal Financial Institutions Examinations Council to address problems in the industry that were allegedly due to inadequate appraisal work. The subcommittee will monitor individual state appraiser certification and licensing systems; appraisal standards and determinations for federal transactions requiring licensed and certified appraisers; and the Appraisal Foundation, a nonprofit corporation drawn from the appraisal industry. After July 1, 1991, only licensed appraisers will be qualified for work on federal transactions involving more than \$1 million in property. Federal regulatory agencies will prescribe other transactions that will require appraisal by state certified appraisers. In order to comply with the act, Michigan's appraisers will have to be licensed or certified by July 1, 1991.

Currently, in Michigan, appraisers are licensed as real estate salespersons or brokers. Continuing education courses and professional designations for appraisers are offered by several organizations, and these organizations — in cooperation with the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, the International Association of Assessing Officers, the National Association of Independent Fee Appraisers, the Appraisal Institute of Canada, the American Society of Farm Managers and Rural Appraisers, the American Society of Appraisers, the National Society of Real Estate Appraisers, and the International Right of Way Association — have developed legislation to establish a state certification policy for appraisers.

THE CONTENT OF THE BILLS:

The bills would amend the State License Fee Act and the Occupational Code, respectively, to license and regulate real estate appraisers as an independent occupation. The bills are tie-barred to each other.

House Bill 5335 would amend the State License Fee Act (MCL 338.2203 and 338.2238) to establish an Appraisal Fund in the State Treasury that would receive up to \$25 of each license fee received by the Department of Licensing and Regulation from those seeking licensure as a licensed real estate appraiser, state certified general real estate appraiser, or as a state certified residential real estate appraiser. The bill would establish the following license fees:

Application Processing Fee	\$ 25.00
Examination Fee	\$ 15.00
License Fee per Year	\$ 50.00

Under the bill, the fund would be administered by the department, and would be remitted to the Federal Financial Institutions Examination Council. Any unexpended balance in the fund at the end of a fiscal year would be carried forward to the next fiscal year.

House Bill 5439 would amend the Occupational Code (MCL 339.302 et al.) to create a Board of Real Estate Appraisers, and to require the licensing and registration of real estate appraisers.

Board of Real Estate Appraisers. Under the bill, a majority of those members of the Board of Real Estate Appraisers who were appraisers would have to be licensed as state certified appraisers. The board could supplement or adopt any amendments to the Uniform Standards of Professional Appraisal Practice (USPAP) — the standards published by the Appraisal Foundation on January 30, 1989 — if it determined that they could serve as a basis for the competent development and communication of an appraisal. At a minimum, these standards would be used by licensees.

Department of Licensing and Regulation. The department would be required to provide the federal Financial Institutions Examination Council with a list of licensees at least once per calendar year, along with the appropriate fee, as required by the State License Fee Act.

Appraisals. The bill would require that an appraisal be in writing; that any limitations on the type of analysis, valuation, or opinion in relation to an appraisal be disclosed; that an appraisal be independently and impartially prepared and that it conform to USPAP and any standards adopted by the board; and that it include an opinion of defined value of adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Under the bill, an appraisal would mean an opinion, conclusion, or analysis relating to the value of real property, but would not include:

- A market analysis performed by a licensed real estate broker solely for the purpose of assisting a customer in determining the potential price of property.
- An assessment of the value of real property performed on behalf of a local unit of government authorized to impose property taxes.

Real Estate Appraiser License. In order to be licensed as a real estate appraiser, an applicant would first be required to pass a board-and department-approved exam, and then prove that he or she had completed not less than 48 clock hours of classroom courses acceptable to the board and related to developing and communicating appraisals, 15 hours of which were related to standards of professional practice. Until such time as an examination was available,

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the department could issue a temporary license to an applicant who met the other requirements.

State Certified Residential Real Estate Appraiser License. In order to be licensed as a State Certified Residential Real Estate Appraiser, an applicant would first be required to pass a written examination in certain subjects, and would also be required to submit evidence showing that he or she met the following conditions:

- Completion of at least 75 clock hours of classroom courses related to developing and communicating appraisals, fifteen hours of which were related to standards of professional practice.
- Experience, for two of the five years preceding the application date, in the business of being an appraiser, a manager of an appraisal firm or department, or an instructor of board-determined educational courses relating to the development or communication of appraisals. The applicant might also be requested to furnish written reports, memoranda, or other documentation that reflected the above experience.
- Be of good moral character.

Until such time as an examination was available, the department could issue a temporary license to an applicant who met the other requirements, and who was an active member of any national organization of real estate appraisers that had been investigated by the department and that required strict adherence by members to the USPAP, or who had demonstrated the fulfillment of requirements that were at least equal to those established by the Appraisal Qualification Board of the Appraisal Foundation and had demonstrated adherence to the USPAP.

State Certified General Real Estate Appraiser License. In order to be licensed as a State Certified General Real Estate Appraiser, an applicant would be required to complete the conditions required of General Real Estate Appraisers, and in addition, 90 clock hours of classroom courses related to developing and communicating appraisals. Until such time as an examination was available, the department could issue a temporary license to an applicant who met the other requirements, and who was an active member of any national organization of real estate appraisers that had been investigated by the department and that required strict adherence by members to the USPAP, or who had demonstrated the fulfillment of requirements that were at least equal to those established by the Appraisal Qualification Board of the Appraisal Foundation and had demonstrated adherence to the USPAP.

Nonresident Licenses. The department could issue licenses at the corresponding level without examination to persons licensed by another state if that state's requirements were at least equal to Michigan's and if the nonresident filed an irrevocable consent to service of process.

License Renewals. Applicants for license renewal would be required to complete, within the 12 months immediately preceding the renewal, at least 10 clock hours of continuing education related to appraisals. Alternatively, an applicant could complete either an educational program of study equal to the 10 clock hours of continuing education; teach education programs related to the theory, practices, or techniques of appraisals; or do both. The department could not license an individual whose license had lapsed for a period of more than 3 continuous years, unless the applicant met the license requirements of the bill.

Penalties and Violations. The following violations would be subject to the penalties prescribed in the code:

- Violation of any of the standards for the development and communication of real estate appraisals or a rule promulgated under the bill.
- Failure or refusal without good cause to exercise reasonable diligence in developing or communicating an appraisal.
- Demonstration of incompetence in developing or communicating an appraisal.
- Signing an appraisal that the licensee had not performed.

Other Provisions. Within three years after the bill's effective date, the bill would require that each individual appointed to a board be licensed or registered in the occupation licensed or registered by that board. Until then, individuals with either or both of the following qualifications could be appointed by the governor as initial members of a board created, or first appointed, on or after January 1, 1990:

- Was certified or otherwise approved by a national organization that certified or otherwise approved individuals in the occupation to be licensed or registered by the board.
- Had actively practiced in the occupation licensed or registered by the board or had taught in an educational institution that prepared applicants for licensure or registration in that occupation, or a combination of both, for not less than the two years immediately preceding the appointment.

The bill would also provide for staggered terms for initial members of a board created or first appointed after January 1, 1990.

FISCAL IMPLICATIONS:

According to the Department of Licensing and Regulation, the fiscal impact of the bill on the state cannot be estimated as yet, since the number of license applicants is unknown. (5-30-90)

ARGUMENTS:

For:

By requiring the licensing and regulation of appraisers, the bills would assure that Michigan's financial institutions comply with federal law by the required date. To assure compliance, the bills reflect federal guidelines, and were drafted with input from the financial, real estate, appraisal, and regulatory communities.

Against:

The bill should be amended to delete the requirement under the Occupational Code that the majority of the members appointed to a licensure board be licensed in the occupation regulated by that board, and to comply with the federal government's recommendation that members of state appraiser certification boards be drawn from the general public, and not from the industry itself. In light of the current savings and loan crisis, it would seem naive, at best, to have the standards and practices of the appraisal business formulated and administered by the members of its own profession. This provision gives more responsibility and power to the profession than is in the best interests of consumers and the public.

Response: House Bill 5439's requirement that the majority of the members appointed to a licensure board of a profession be members of that profession is in

compliance with Article Five, Section Five of the State Constitution of 1963. The provision is an assurance that professional boards receive input from experts, and that the Department of Licensing and Regulation does not have excessive power over the licensing and regulation process.

POSITIONS:

The American Institute of Real Estate Appraisers supports the bills. (5-29-90)

The Michigan Association of Realtors supports the bills. (5-29-90)

The Michigan Association of Credit Unions supports the bills. (6-4-90)

The Financial Institutions Bureau supports the bills. (6-5-90)

The Michigan Bankers Association supports the bills. (6-5-90)

The Department of Licensing and Regulation has not yet formulated a position on the bills. (5-30-90)