

Senate Bill 820

Sponsored by Senator WINTERS (at the request of Kathy Goss)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Terminates semi-independent state agency status of Appraiser Certification and Licensure Board. Establishes Appraiser Certification and Licensure Fund and continuously appropriates monies from fund to board. Requires board to comply with State Personnel Relations Law.

Becomes operative July 1, 2011.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Appraiser Certification and Licensure Board; creating new provisions; amending ORS
3 182.454, 286A.001, 674.305, 674.310, 674.330 and 674.340; appropriating money; and declaring an
4 emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 182.454 is amended to read:

7 182.454. The following semi-independent state agencies are subject to ORS 182.456 to 182.472:

8 *[(1) The Appraiser Certification and Licensure Board.]*

9 *[(2)] (1)* The State Board of Architect Examiners.

10 *[(3)] (2)* The State Board of Examiners for Engineering and Land Surveying.

11 *[(4)] (3)* The State Board of Geologist Examiners.

12 *[(5)] (4)* The State Landscape Architect Board.

13 *[(6)] (5)* The Oregon Board of Optometry.

14 *[(7)] (6)* The Oregon Patient Safety Commission.

15 *[(8)] (7)* The Oregon Wine Board.

16 *[(9)] (8)* The State Board of Massage Therapists.

17 *[(10)] (9)* The Physical Therapist Licensing Board.

18 *[(11)] (10)* The State Landscape Contractors Board.

19 **SECTION 2.** Section 3 of this 2009 Act is added to and made a part of ORS chapter 674.

20 **SECTION 3.** (1) **If the Appraiser Certification and Licensure Board proposes to refuse to**
21 **issue or renew a person's certificate, license or registration or proposes to revoke or suspend**
22 **a person's certificate, license or registration, the board shall accord the person an opportu-**
23 **nity for hearing as provided in ORS chapter 183.**

24 **(2) Conduct of hearings, issuance of orders and judicial review of rules and orders shall**
25 **be in accordance with ORS chapter 183.**

26 **SECTION 4.** ORS 674.305 is amended to read:

27 674.305. (1) The Appraiser Certification and Licensure Board is established. *[The board shall*
28 *operate as a semi-independent state agency subject to ORS 182.456 to 182.472 for purposes of carrying*
29 *out the provisions of this chapter.]* The board shall consist of seven members~~].~~ *The members shall*
30 *be]* appointed by the Governor *[and]*. **The members** must be residents of this state.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) The board shall be composed of:

2 (a) Five appraisers certified or licensed under ORS 674.310;

3 (b) One individual who is employed by a financial institution or a mortgage banker; and

4 (c) One individual who is a public member and who:

5 (A) Is not engaged in professional real estate activity;

6 (B) Is not a state certified or state licensed appraiser;

7 (C) Is not employed by a financial institution or a mortgage banker; and

8 (D) Does not have a direct financial interest in any person who is required, or whose employees
9 or agents are required, to be state licensed or state certified appraisers.

10 (3) The term of office of each member is four years with two terms maximum, but a member
11 serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor
12 shall appoint a successor whose term begins on July 1 next following. A member is eligible for re-
13 appointment. If there is a vacancy for any cause, the Governor shall make an appointment to become
14 immediately effective for the unexpired term. A member may not be appointed to serve more than
15 two consecutive terms on the board.

16 (4) The board shall select one of its members as chairperson and another as vice chairperson,
17 for such terms and with duties and powers necessary for the performance of the functions of such
18 offices as the board determines.

19 (5) A majority of the members of the board constitutes a quorum for the transaction of business.

20 (6) The board shall meet at least once every three months at a place, day and hour determined
21 by the board. The board also shall meet at other times and places specified by the call of the
22 chairperson or of a majority of the members of the board.

23 (7) In accordance with applicable provisions of ORS chapter 183, the board shall adopt rules
24 necessary for the administration of this chapter.

25 (8) The appointment of a member of the board is subject to confirmation by the Senate in the
26 manner prescribed in ORS 171.562 and 171.565.

27 **SECTION 5.** ORS 674.310 is amended to read:

28 674.310. (1) The Appraiser Certification and Licensure Board shall:

29 (a) Have the power to do all things necessary and convenient to carry into effect the provisions
30 of this chapter and the federal Act and to regulate the activities of state licensed appraisers, state
31 certified appraisers and state registered appraiser assistants to ensure that real estate appraisals
32 conform to the law in effect on the date of the real estate appraisal activity.

33 (b) Certify or license appraisers and register appraiser assistants as necessary to carry out the
34 federal Act and the purposes set forth in ORS 674.020.

35 (c) Supervise the activities of state certified appraisers, state licensed appraisers and state reg-
36 istered appraiser assistants as provided in this chapter, to ensure that they perform real estate ap-
37 praisal activity in strict conformance with the provisions of this chapter and of the federal Act, and
38 that they otherwise comply with the provisions of this chapter in the conduct of their professional
39 activities.

40 (d) Establish, keep current and, no less than annually, transmit to the Appraisal Subcommittee
41 a roster listing state certified appraisers and state licensed appraisers.

42 (e) Collect and remit annual registry fees as required by ORS 674.330.

43 **(f) Subject to the State Personnel Relations Law, appoint, prescribe the duties of and fix**
44 **the compensation of an administrator and other employees of the board necessary to carry**
45 **out the duties of the board.**

1 **(g) Report biennially to the Legislative Assembly concerning the activities of the board.**

2 (2) Rules adopted by the Appraiser Certification and Licensure Board to govern real estate ap-
3 praiser certification and licensure shall conform with the requirements of the federal Act. The
4 board shall adopt rules including but not limited to:

5 (a) Establishing programs for the certification, licensure or registration of individuals who en-
6 gage in real estate appraisal activity.

7 (b) Establishing educational requirements for certification or licensure of appraisers and for the
8 registration of appraiser assistants that ensure protection of the public interest and comply with the
9 requirements of the federal Act. Education requirements for state licensed appraisers and state
10 certified appraisers must meet the minimum criteria established by the Appraiser Qualification
11 Board of the Appraisal Foundation.

12 (c) Establishing a professional code of responsibility for state certified appraisers and state li-
13 censed appraisers that is in conformance with the federal Act.

14 (d) Providing for registration of out-of-state appraisers as provided for under ORS 674.120.

15 (3) An individual may not be a state licensed appraiser or a state certified appraiser unless the
16 individual has achieved a passing grade upon a suitable examination equivalent to the Uniform
17 Certification Examination issued or endorsed by the Appraisal Qualification Board of the Appraisal
18 Foundation.

19 (4) The Appraiser Certification and Licensure Board, acting through the administrator, may is-
20 sue subpoenas to compel the attendance of witnesses and the production of papers, books, records,
21 correspondence, agreements, memoranda and other material or relevant documents in investigations
22 or proceedings pertaining to the powers and duties of the board.

23 (5) In the case of a person who refuses to respond to a subpoena issued by the Appraiser Cer-
24 tification and Licensure Board, the judge of the circuit court, on the application of the board ad-
25 ministrator, shall order compliance with the board subpoena in the same manner as a proceeding for
26 contempt for failure to respond to a subpoena of the court.

27 **SECTION 6.** ORS 674.330 is amended to read:

28 674.330. (1) The Appraiser Certification and Licensure Board shall collect from each state cer-
29 tified appraiser and each state licensed appraiser an annual registry fee as required by the federal
30 Act and in an amount determined by the Appraisal Subcommittee. All annual registry fees collected
31 by the board under this subsection shall be remitted to the Federal Financial Institutions Examina-
32 tion Council in accordance with the federal Act.

33 (2) Except as provided in subsection (1) of this section and in addition to any fees required by
34 subsection (1) of this section, the **Appraiser Certification and Licensure** Board may establish by
35 rule fees to be charged and collected under this chapter. The fees established by the board may in-
36 clude, but need not be limited to, fees:

37 (a) For each certification or licensure examination administered under ORS 674.310.

38 (b) For each certificate or license awarded or issued under ORS 674.310.

39 (c) For each renewal of a certificate or license awarded or issued under ORS 674.310.

40 (d) For each duplicate certificate or license, where the original license is lost or destroyed and
41 affidavit made thereof.

42 (e) For the renewal of an inactive certificate or license.

43 (f) For the reactivation of an inactive certificate or license.

44 (g) For late renewal, in addition to the renewal fee.

45 (h) For a temporary registration provided for under ORS 674.120.

- 1 (i) For each application.
- 2 (j) For inactive status.
- 3 (k) For each walk-in examination.
- 4 (L) For each appraiser assistant registration.
- 5 (m) For each appraiser assistant renewal.

6 **(3) The fees established by the Appraiser Certification and Licensure Board may not exceed the cost of administering the regulatory program of the board pertaining to the purpose**
 7 **for which the fee is established. The fees:**

- 9 **(a) Are subject to prior approval by the Oregon Department of Administrative Services;**
- 10 **(b) Shall be submitted to the Emergency Board prior to adoption; and**
- 11 **(c) Shall be within the budget authorized by the Legislative Assembly for the Appraiser**
 12 **Certification and Licensure Board, as that budget may be modified by the Emergency Board.**

13 **SECTION 7.** ORS 674.340 is amended to read:

14 674.340. (1) *[All moneys, fees and charges collected or received by the Appraiser Certification and*
 15 *Licensure Board pursuant to ORS 674.330 shall be paid into the account created by the board under*
 16 *ORS 182.470.]* **The Appraiser Certification and Licensure Fund is established separate and**
 17 **distinct from the General Fund.** All moneys *[in]* **received by the Appraiser Certification and**
 18 **Licensure Board under this chapter shall be deposited into the** *[account]* **Appraiser Certif-**
 19 **ication and Licensure Fund and** are appropriated continuously to the board to carry out the duties
 20 that the board is charged with administering.

21 (2) The Federal Registry *[Fund]* **Account** is established in the *[account created by the board*
 22 *under ORS 182.470]* **fund.** *[Proceeds]* **Moneys** received under ORS 674.330 (1) shall be deposited in
 23 the Federal Registry *[Fund]* **Account.** The moneys in the Federal Registry *[Fund]* **Account** shall
 24 be used solely as set forth in ORS 674.330 (1).

25 **SECTION 8.** ORS 286A.001 is amended to read:

26 286A.001. As used in this chapter:

27 (1) “Agreement for exchange of interest rates” means a contract, or an option or forward com-
 28 mitment to enter into a contract, for the exchange of interest rates that provides for:

- 29 (a) Payments based on levels of or changes in interest rates; or
- 30 (b) Provisions to hedge payment, rate, spread or similar exposure including, but not limited to,
 31 an interest rate floor or cap or an option, put or call.

32 (2) “Bond”:

33 (a) Means a contractual undertaking or instrument of the State of Oregon to repay borrowed
 34 moneys.

35 (b) Does not mean a financing agreement, as defined in ORS 283.085, if the principal amount of
 36 the agreement is \$100,000 or less, or a credit enhancement device.

37 (3) “Counterparty” means an entity with whom the State of Oregon enters into an agreement for
 38 exchange of interest rates.

39 (4) “Credit enhancement device”:

40 (a) Means a letter of credit, line of credit, standby bond purchase agreement, bond insurance
 41 policy, reserve surety bond or other device or facility used to enhance the creditworthiness, liquidity
 42 or marketability of bonds or agreements for the exchange of interest rates; and

43 (b) Does not mean a bond.

44 (5) “Credit enhancement device fee” means a payment required to be made to the provider of a
 45 credit enhancement device securing a bond or securing an agreement for the exchange of interest

1 rates.

2 (6) "General obligation bond" means a bond that constitutes indebtedness of the state under
3 section 7, Article XI of the Oregon Constitution, and that is exempt from the \$50,000 limitation on
4 indebtedness set forth in that section.

5 (7) "Refunding bond" means a bond of the State of Oregon that is issued to refund another bond,
6 regardless of whether the refunding is on a current, advance, forward delivery, synthetic or other
7 basis.

8 (8) "Related agency" means the state agency that requests the State Treasurer to issue bonds
9 pursuant to ORS 286A.025 or for which the State Treasurer has issued bonds.

10 (9) "Related bond" means a bond for which the State of Oregon enters into an agreement for
11 exchange of interest rates.

12 (10) "Revenue" means all fees, tolls, excise taxes, assessments, property taxes and other taxes,
13 rates, charges, rentals and other income or receipts derived by a state agency or to which a state
14 agency is entitled.

15 (11) "Revenue bond" means a bond of the State of Oregon that is not a general obligation bond.

16 (12) "State agency":

17 (a) Includes a statewide elected officer, board, commission, department, division, authority or
18 other entity, without regard to the designation given to the entity, that is within state government,
19 as defined in ORS 174.111; and

20 (b) Does not include:

21 (A) A statewide elected judge;

22 (B) The State Treasurer;

23 (C) A local government, as defined in ORS 174.116;

24 (D) The Oregon Health and Science University;

25 (E) A special government body, as defined in ORS 174.117, except to the extent a special gov-
26 ernment body must be considered a state agency in order to achieve the purposes of Article XI-K
27 of the Oregon Constitution; or

28 (F) A semi-independent state agency listed in ORS [182.451,] 182.454[,] or 377.835 [or 674.305],
29 or any other state agency denominated by statute as a semi-independent state agency.

30 (13) "Termination payment" means the amount payable under an agreement for exchange of in-
31 terest rates by one party to another party as a result of the termination, in whole or part, of the
32 agreement prior to the expiration of the stated term.

33 **SECTION 9. (1) The Appraiser Certification and Licensure Board shall take any action**
34 **necessary to cause its 2010-2011 fiscal year to end on June 30, 2011.**

35 **(2) The board shall prepare an annual financial statement of board revenues and expenses**
36 **for the board's 2010-2011 fiscal year and shall make the statement available for public review.**
37 **The board shall provide a copy of its annual financial statement to the Oregon Department**
38 **of Administrative Services on or before September 30, 2011.**

39 **(3) If the Seventy-sixth Legislative Assembly does not enact legislation before July 1,**
40 **2011, authorizing expenditures for the board for purposes of the 2011-2013 biennial budget, in**
41 **any Act for the temporary continuation of state agency expenditures the expenditure levels**
42 **budgeted by the board for the last quarter of the board's 2010-2011 fiscal year shall be con-**
43 **sidered to be the board's authorized expenditure levels for the last quarter of the 2009-2011**
44 **biennial budget.**

45 **SECTION 10. Notwithstanding the amendments to ORS 674.310 by section 5 of this 2009**

1 Act, the lawful rules of the Appraiser Certification and Licensure Board that are in effect
2 immediately prior to the operative date of the amendments to ORS 674.310 by section 5 of
3 this 2009 Act continue in full force and effect unless superseded by temporary or permanent
4 rules lawfully adopted on or after the operative date of the amendments to ORS 674.310 by
5 section 5 of this 2009 Act.

6 **SECTION 11.** Notwithstanding the amendments to ORS 674.330, by section 6 of this 2009
7 Act, the fee structure utilized by the Appraiser Certification and Licensure Board imme-
8 diately prior to the operative date of the amendments to ORS 674.330 by section 6 of this 2009
9 Act continues in full force and effect except as superseded by a temporary or permanent fee
10 structure lawfully adopted on or after the operative date of the amendments to ORS 674.330
11 by section 6 of this 2009 Act.

12 **SECTION 12.** (1) The termination of the semi-independent state agency status of the
13 Appraiser Certification and Licensure Board on the operative date of the amendments to
14 ORS 182.454 and 674.305 by sections 1 and 4 of this 2009 Act does not act to cancel:

15 (a) Any lawful debt owing by or to the board;

16 (b) Any fine, penalty, tax or obligation imposed on or by the board;

17 (c) Any action taken by the board in the administration and enforcement of the board's
18 duties;

19 (d) Any budget for the 2010-2011 fiscal year lawfully adopted by the board; or

20 (e) Any action filed on or before that operative date in which the board is a named party.

21 (2) The Appraiser Certification and Licensure Board, upon the expiration of the semi-
22 independent status of the board, shall retain all supplies, materials, equipment, records,
23 books and papers of the board as though the expiration had not occurred. Subject to the
24 authority of the Oregon Department of Administrative Services under ORS 276.410, the
25 board, upon the expiration of the semi-independent status of the board, may continue to oc-
26 cupy and use board facilities as though the expiration had not occurred.

27 **SECTION 13.** On the operative date of the amendments to ORS 674.340 by section 7 of
28 this 2009 Act, the Appraiser Certification and Licensure Board shall close the account cre-
29 ated by the board under ORS 182.470. The moneys in the account remaining unexpended and
30 unobligated on the operative date of the amendments to ORS 674.340 by section 7 of this 2009
31 Act shall be transferred to the Appraiser Certification and Licensure Fund established under
32 ORS 674.340.

33 **SECTION 14.** The Appraiser Certification and Licensure Board and any state agency or
34 officer may undertake any reasonable and necessary action prior to the operative date of the
35 amendments to ORS 182.454, 286A.001, 674.305, 674.310, 674.330 and 674.340 by sections 1 and
36 4 to 8 of this 2009 Act to facilitate the carrying out of this 2009 Act on and after that oper-
37 ative date. The authority granted by this section includes, but is not limited to, the prepa-
38 ration of the biennial departmental budgets of the Appraiser Certification and Licensure
39 Board for inclusion in the state budget for the 2011-2013 biennium.

40 **SECTION 15.** The amendments to ORS 182.454, 286A.001, 674.305, 674.310, 674.330 and
41 674.340 by sections 1 and 4 to 8 of this 2009 Act become operative on July 1, 2011.

42 **SECTION 16.** Section 3 of this 2009 Act applies to proposals of the Appraiser Certification
43 and Licensure Board made on or after the effective date of this 2009 Act:

44 (1) To refuse to issue or renew a license, certification or registration; or

45 (2) To suspend or revoke a license, certification or registration.

1 **SECTION 17.** This 2009 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
3 on its passage.
4
