

HOUSE AMENDMENTS TO HOUSE BILL 3624

By COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT ACCOUNTABILITY

February 12

- 1 On page 1 of the printed updated sponsors bill, line 3, delete “674.150, 674.160,”.
2 In line 8, delete “6” and insert “7”.
3 In line 14, delete “independent contractor”.
4 On page 2, line 13, after “(1)” insert “(a)”.
5 After line 15, insert:
6 “(b) Notwithstanding ORS 674.100 (3)(a), an affiliate of a financial institution or insurance com-
7 pany may not provide appraisal management services unless the affiliate is registered as an ap-
8 praisal management company with the board.”.
9 In line 25, delete “independent contractor”.
10 In line 26, after “chapter” insert “and is competent to perform real estate appraisal activity”.
11 Delete lines 27 and 28 and insert:
12 “(B) If the entity reviews real estate appraisal activity performed by an appraiser, the review
13 is conducted by another appraiser; and”.
14 In line 31, delete “independent contractor”.
15 In line 32, delete “and”.
16 After line 32, insert:
17 “(f) A description of the dispute resolution process required by section 7 of this 2010 Act;
18 and”.
19 In line 33, delete “(f)” and insert “(g)”.
20 Delete lines 38 through 41 and insert:
21 “(b) Have never had a license, certification or registration to act as an appraiser or appraisal
22 management company refused, denied, canceled or revoked in this state or in any other state.”.
23 In line 42, delete “(5)” and insert “(4)”.
24 In line 45, delete “the company”.
25 On page 3, delete lines 1 through 9 and insert:
26 “(a) The company has a system to verify that each appraiser on the company’s appraiser panel
27 is licensed or certified under this chapter and is competent to perform real estate appraisal activity;
28 “(b) If the company reviews real estate appraisal activity performed by an appraiser, the review
29 is conducted by another appraiser; and
30 “(c) The company maintains and retains for at least five years, or as required under ORS
31 674.150, a detailed record of each appraisal management services request the company receives and
32 the appraiser who performs the real estate appraisal activity contained in the request.”.
33 In line 12, after “company’s” delete the rest of the line and line 13 and insert “compliance with
34 sections 2 to 7 of this 2010 Act.”.
35 In line 16, after “findings” delete the rest of the line and line 17 and insert “on the results of

1 the audit.”.

2 In line 19, delete “7” and insert “8”.

3 In line 29, delete “independent contractor”.

4 In line 32, delete “independent contractor”.

5 In line 33, delete “independent contractor”.

6 In line 35, delete “independent contractor”.

7 In line 37, delete “independent contractor”.

8 In line 41, delete “independent contractor”.

9 In line 43, delete “independent contractor”.

10 On page 4, line 5, after “completed” insert “by an appraiser”.

11 Delete lines 8 through 19 and insert:

12 “(b) Substantively alter in any way a completed appraisal report submitted by an appraiser.

13 “(2) This section does not prohibit an appraisal management company from requesting, on behalf
14 of a financial institution at the request of a consumer, that an appraiser:

15 “(a) Provide additional information about the basis for the valuation;

16 “(b) Correct objective factual errors in a completed appraisal report; or

17 “(c) Consider the values of other comparable properties.”.

18 Delete lines 25 through 32 and insert:

19 “**SECTION 7. The Appraiser Certification and Licensure Board shall adopt rules requiring**
20 **an appraisal management company to establish a dispute resolution process that allows a**
21 **person with an interest in a real estate transaction for which an appraisal was arranged by**
22 **the appraisal management company to dispute the appraisal.**

23 “**SECTION 8. (1) In accordance with ORS chapter 183, the Appraiser Certification and**
24 **Licensure Board may impose a civil penalty not to exceed \$15,000 on a person who violates**
25 **a provision of sections 2 to 7 of this 2010 Act.**

26 “**(2) The civil penalty under this section is in addition to and not in lieu of any other**
27 **penalty or sanction provided by law.**”.

28 On page 5, line 20, after “entity” insert “that”.

29 Delete lines 28 through 45 and delete pages 6 through 8.

30 On page 9, delete lines 1 through 9 and insert:

31 “**SECTION 10.** ORS 674.020 is amended to read:

32 “674.020. The purposes of this chapter are to:

33 “(1) Require that all real estate appraisals be performed in accordance with uniform standards
34 by [*individuals*] **persons** whose competency has been demonstrated and whose professional conduct
35 will be subject to effective supervision.

36 “(2) Conform the law of this state to the requirements of federal law.

37 “(3) Ensure the availability of state certified appraisers, state licensed appraisers and state
38 registered appraiser assistants for the performance of real estate appraisal activity, including the
39 performance of appraisals in federally related transactions, and to ensure effective supervision of the
40 activities of state certified appraisers, state licensed appraisers and state registered appraiser as-
41 sistants.

42 “**(4) Provide for regulation of registered appraisal management companies to foster ap-**
43 **praiser independence, objectivity, impartiality and competence.**

44 “**SECTION 11.** ORS 674.100 is amended to read:

45 “674.100. (1)(a) A person may not engage in, carry on, advertise or purport to engage in or carry

1 on real estate appraisal activity within this state without first obtaining certification, licensure or
2 registration as provided for in ORS 674.310 **or section 3 of this 2010 Act.**

3 “(b) Real estate appraisal activity is the preparation, completion and issuance of an opinion as
4 to the value on a given date or at a given time of real property or an interest in real property,
5 whether the activity is performed in connection with a federally related transaction or is not per-
6 formed in connection with a federally related transaction. Notwithstanding any other provision of
7 law, a state certified appraiser or a state licensed appraiser:

8 “(A) Is not required to be licensed under ORS 696.022 to perform real estate appraisal activity
9 or any other activity that constitutes the giving of an opinion as to the value of real property or
10 an interest in real property; and

11 “(B) Is not subject to regulation under ORS 696.010 to 696.495 and 696.600 to 696.995 in con-
12 nection with the performance of real estate appraisal activity or the performance of any other ac-
13 tivity that constitutes the giving of an opinion as to the value of real estate or an interest in real
14 estate.

15 “(2) Real estate appraisal activity excludes activity that is not performed in connection with a
16 federally related transaction and that:

17 “(a) Is performed by a nonlicensed regular full-time employee of a single owner of real estate,
18 if the activity involves the real estate of the employer and is incidental to the employee’s normal,
19 nonreal estate activities;

20 “(b) Is performed by a nonlicensed regular full-time employee whose activity involves the real
21 estate of the employer, when the activity is the employee’s principal activity, but the employer’s
22 principal activity or business is not the appraisal of real estate;

23 “(c) Is performed by an attorney at law rendering services in the performance of duties as an
24 attorney at law;

25 “(d) Is performed by a registered geologist, registered professional engineer or architect ren-
26 dering services as a registered geologist, registered professional engineer or architect;

27 “(e) Is performed by a certified public accountant rendering services as a certified public ac-
28 countant;

29 “(f) Is performed by a mortgage banker rendering services as a mortgage banker;

30 “(g) Constitutes a letter opinion or a competitive market analysis as those terms are defined in
31 ORS 696.010 that, by administrative or judicial order or subpoena, is compelled from an individual
32 licensed to engage in professional real estate activity under ORS 696.022;

33 “(h) Is performed by a salaried employee of the federal government, the State of Oregon or a
34 political subdivision of the federal government or the State of Oregon while engaged in the per-
35 formance of the duties of the employee;

36 “(i) Is limited to analyzing or advising of permissible land use alternatives, environmental im-
37 pact, building and use permit procedures or demographic market studies, if the performance of the
38 activities does not involve the rendering of an opinion as to the value of the real estate in question;

39 “(j) Is performed by a professional forester appraising or valuing timber, timberland or both as
40 part of services performed as a private consultant in forest management, but only if, in the case of
41 timberland, the appraisal or valuation is limited to the use of the land as forestland;

42 “(k) Is limited to giving an opinion in an administrative or judicial proceeding regarding the
43 value of real estate for taxation;

44 “(L) Is limited to giving an opinion regarding the value of real estate by a person who is not
45 licensed under ORS chapter 696, if the person’s business is not the appraisal, selling or listing of

1 real estate and the activity is performed without compensation. This paragraph does not apply to
2 a person conducting transactional negotiations on behalf of another person for transfer of an inter-
3 est in real property;

4 “(m) Is limited to transferring or acquiring an interest in real estate by a person who is not li-
5 censed under ORS chapter 696; or

6 “(n) Is performed by a home inspector acting within the scope of a certificate or license issued
7 under ORS chapter 701.

8 “(3)(a) Real estate appraisal activity does not include an analysis, evaluation, opinion, conclu-
9 sion, notation or compilation of data prepared by a financial institution or affiliate, a consumer fi-
10 nance company licensed under ORS chapter 725 or an insurance company or affiliate, made for
11 internal use only by the financial institution or affiliate, consumer finance company or the insurance
12 company or affiliate, concerning an interest in real estate for ownership or collateral purposes by
13 the financial institution or affiliate, the consumer finance company licensed under ORS chapter 725
14 or the insurance company or affiliate. Nothing in this subsection shall be construed to excuse a
15 financial institution or affiliate from complying with the provisions of Title XI of the federal Finan-
16 cial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 et seq.).

17 “(b) As used in this subsection, ‘evaluation’ means a study of the nature, quality or utility of a
18 parcel of real estate or interests in, or aspects of, real property in which a value estimate is not
19 necessarily required.

20 “(4)(a) As used in this section, ‘purport to engage in or carry on real estate appraisal activity’
21 means the display of a card, sign, advertisement or other printed, engraved or written instrument
22 bearing the person’s name in conjunction with the term ‘appraiser,’ ‘licensed appraiser,’ ‘certified
23 appraiser,’ ‘appraiser assistant,’ ‘registered appraiser assistant’ or ‘appraisal’ or an oral statement
24 or representation of certification, licensure or registration by the Appraiser Certification and
25 Licensure Board made by a person.

26 “(b) Each display or statement described in paragraph (a) of this subsection by a person not li-
27 censed, certified or registered by the board is a separate violation under ORS 674.850 or 674.990.

28 “(c) In a proceeding under ORS 674.850 or 674.990, a display or statement described in para-
29 graph (a) of this subsection shall be considered prima facie evidence that the person named in the
30 display or making the statement purports to engage in or carry on real estate appraisal activity.

31 “**SECTION 12.** ORS 674.140 is amended to read:

32 “674.140. The Appraiser Certification and Licensure Board may suspend or revoke the certif-
33 icate, license or registration of a state certified appraiser, a state licensed appraiser, [or] a state
34 registered appraiser assistant **or a registered appraisal management company**, reprimand a state
35 certified appraiser, a state licensed appraiser, [or] a state registered appraiser assistant **or a reg-**
36 **istered appraisal management company**, require additional education of a state certified ap-
37 praiser, a state licensed appraiser or a state registered appraiser assistant or deny the issuance or
38 renewal of a certificate, license or registration to an applicant if the state certified appraiser, state
39 licensed appraiser, [or] state registered appraiser assistant, **registered appraisal management**
40 **company** or applicant has done any of the following:

41 “(1) Knowingly or negligently pursued a continued course of material misrepresentation in
42 matters related to real estate appraisal activity **or appraisal management services as defined in**
43 **section 2 of this 2010 Act**, whether or not damage or injury resulted, or knowingly or negligently
44 made a material misrepresentation or false material promise in a matter related to real estate ap-
45 praisal activity **or appraisal management services as defined in section 2 of this 2010 Act**, if

1 the material misrepresentation or material false promise created a reasonable probability of damage
2 or injury, whether or not damage or injury actually resulted.

3 “(2) Disregarded or violated a provision of ORS 674.130 or 674.150 **or sections 2 to 7 of this**
4 **2010 Act** or the federal Act or a rule adopted under ORS 674.310 **or sections 2 to 7 of this 2010**
5 **Act.**

6 “(3) Knowingly or negligently made, printed, distributed or in any manner published materially
7 misleading or untruthful advertising, descriptions or promises, of such character as reasonably to
8 induce a person to act to the damage or injury of the person, whether or not actual damage or in-
9 jury resulted.

10 “(4) Guaranteed, authorized or permitted a person to guarantee future profits that may result
11 in the resale of real property.

12 “(5) Failed [*for any reason*] to pay to the board the annual registry fee provided for under ORS
13 674.330 (1) or the fees provided for under ORS 674.330 (2).

14 “(6) Failed or refused upon demand by the board to produce or to supply for inspection by the
15 board true copies of any document, book or record in the [*individual’s*] **person’s** possession or
16 control or concerning real estate appraisal activity **or appraisal management services as defined**
17 **in section 2 of this 2010 Act** transacted by the [*individual*] **person.**

18 “(7) Failed to maintain at all times any records that the [*individual*] **person** is required to
19 maintain under ORS 674.150 **or section 3 of this 2010 Act.**

20 “(8) Accepted employment or compensation for performing or agreeing to perform a real estate
21 appraisal activity **or appraisal management services as defined in section 2 of this 2010 Act**
22 contingent upon the reporting of a predetermined value or performed real estate appraisal activity
23 **or appraisal management services as defined in section 2 of this 2010 Act** on real estate in
24 which the [*individual*] **person** had an undisclosed interest.

25 “(9) Entered a plea of nolo contendere or been found guilty of, or been convicted of, a felony
26 or misdemeanor substantially related to the [*individual’s*] **person’s** trustworthiness or competence
27 to engage in real estate appraisal activity **or appraisal management services as defined in sec-**
28 **tion 2 of this 2010 Act.**

29 “(10) Knowingly authorized, directed or aided in the publication, advertisement, distribution or
30 circulation of a material false statement or material misrepresentation concerning the
31 [*individual’s*] **person’s** business.

32 “(11) Demonstrated negligence or incompetence in performing an act for which the [*individual*]
33 **person** is required to hold a certificate, license or registration.

34 “(12) Knowingly permitted [*an individual*] **a person** whose certificate, license or registration has
35 been suspended or revoked to engage in real estate appraisal activity with or on behalf of a state
36 certified appraiser or state licensed appraiser.

37 “(13) Committed an act or conduct, whether of the same or of a different character specified in
38 this section and whether or not in the course of real estate appraisal activity **or appraisal man-**
39 **agement services as defined in section 2 of this 2010 Act**, that:

40 “(a) Constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest,
41 fraudulent or improper dealings; and

42 “(b) Is substantially related to the fitness of the applicant or holder of a certificate, license or
43 registration to conduct real estate appraisal activity **or appraisal management services as de-**
44 **efined in section 2 of this 2010 Act.**”

45 In line 10, delete “15” and insert “13”.

1 In line 14, before “appraisal” insert “registered”.

2 On page 10, line 8, delete “16” and insert “14”.

3 In line 12, delete “registered”.

4 In line 16, delete “17” and insert “15”.

5 In line 34, delete “6 and 7” and insert “7 and 8”.

6 In line 42, delete “18” and insert “16”.

7 On page 11, line 12, delete “7” and insert “8”.

8 Delete lines 18 through 30 and insert:

9 **“SECTION 17. Sections 2 to 8 of this 2010 Act and the amendments to ORS 674.010,**
10 **674.020, 674.100, 674.140, 674.310, 674.320, 674.330 and 674.850 by sections 9 to 16 of this 2010**
11 **Act apply to persons who perform appraisal management services as defined in section 2 of**
12 **this 2010 Act on or after July 1, 2010.**

13 **“SECTION 18. (1) Sections 2 to 8 of this 2010 Act and the amendments to ORS 674.010,**
14 **674.020, 674.100, 674.140, 674.310, 674.320, 674.330 and 674.850 by sections 9 to 16 of this 2010**
15 **Act become operative on July 1, 2010.**

16 **“(2) The Appraiser Certification and Licensure Board may take any action before the**
17 **operative date specified in subsection (1) of this section that is necessary to enable the board**
18 **to exercise, on and after the operative date specified in subsection (1) of this section, all the**
19 **duties, functions and powers conferred on the board by sections 2 to 8 of this 2010 Act and**
20 **the amendments to ORS 674.010, 674.020, 674.100, 674.140, 674.310, 674.320, 674.330 and 674.850**
21 **by sections 9 to 16 of this 2010 Act.”.**

22 In line 31, delete “21” and insert “19”.

23
