

Updated Sponsors

House Bill 3624

Sponsored by Representative HOLVEY; Representatives BUCKLEY, DEMBROW, KENNEMER, TOMEI, VANORMAN (Presession filed.)

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**.

Requires appraisal management companies to register with Appraiser Certification and Licensure Board. Establishes standards for appraisal management companies. Prohibits appraisal management companies from attempting to influence appraisals, altering completed appraisal reports or placing certain requirements on independent contractor appraisers.

Directs board to establish dispute resolution process. Authorizes board to impose civil penalties on appraisal management companies.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to appraisal management companies; creating new provisions; amending ORS 674.010,
3 674.020, 674.100, 674.140, 674.150, 674.160, 674.310, 674.320, 674.330 and 674.850; and declaring an
4 emergency.

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

6 **SECTION 1. Sections 2 to 8 of this 2010 Act are added to and made a part of ORS chapter**
7 **674.**

8 **SECTION 2. As used in sections 2 to 6 of this 2010 Act:**

9 **(1)(a) "Appraisal management company" means a business entity that:**

10 **(A) Performs appraisal management services;**

11 **(B) Administers networks of independent contractor appraisers to perform real estate**
12 **appraisal activity for clients; or**

13 **(C) Otherwise serves as a third-party broker of real estate appraisal activity between**
14 **clients and independent contractor appraisers.**

15 **(b) "Appraisal management company" does not include:**

16 **(A) An appraiser who in the normal course of business enters into an agreement with**
17 **another appraiser for the performance of real estate appraisal activity that the hiring ap-**
18 **praiser cannot complete;**

19 **(B) An appraiser who in the normal course of business enters into an agreement with**
20 **another appraiser for the performance of real estate appraisal activity and upon the com-**
21 **pletion of the activity, jointly signs the appraisal report with the appraiser performing the**
22 **activity; or**

23 **(C) A person who contracts for fewer than 10 appraisals in this state in a calendar year.**

24 **(2) "Appraisal management services" means the process of receiving a request for the**
25 **performance of real estate appraisal activity from a client and, for a fee paid by the client,**
26 **entering into an agreement with an independent contractor appraiser to perform the real**
27 **estate appraisal activity contained in the request.**

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 (3) "Appraiser" means a state certified appraiser or state licensed appraiser.

2 (4) "Appraiser panel" means a group of independent contractor appraisers who have been
3 selected by an appraisal management company to perform real estate appraisal activity for
4 the appraisal management company.

5 (5) "Controlling person" means:

6 (a) An owner, officer or director of an appraisal management company;

7 (b) An individual employed, appointed or authorized by an appraisal management com-
8 pany to enter into an agreement with a client for the performance of appraisal management
9 services or to enter into an agreement with an independent contractor appraiser for the
10 performance of real estate appraisal activity; or

11 (c) An individual who possesses, directly or indirectly, the power to direct the manage-
12 ment or policies of an appraisal management company.

13 **SECTION 3.** (1) A person may not provide appraisal management services unless the
14 person is registered as an appraisal management company with the Appraiser Certification
15 and Licensure Board.

16 (2) A business entity may apply for registration as an appraisal management company
17 on forms prescribed by rule by the board. The application must include:

18 (a) The name, address and contact information of the entity;

19 (b) The name, address and contact information of a controlling person of the entity;

20 (c) If the entity is not domiciled in this state, the name and contact information for the
21 entity's agent for service of process in this state;

22 (d) The name, address and contact information of any person that owns 10 percent or
23 more of the entity;

24 (e) A certification that:

25 (A) The entity has a system to verify that each independent contractor appraiser on the
26 entity's appraiser panel is licensed or certified under this chapter;

27 (B) The entity has a system to review the work of each independent contractor appraiser
28 who performs real estate appraisal activity for the entity; and

29 (C) The entity maintains and retains for at least five years, or as required under ORS
30 674.150, a detailed record of each appraisal management services request the entity receives
31 and the independent contractor appraiser who performs the real estate appraisal activity
32 contained in the request; and

33 (f) Any other information required by the board by rule.

34 (3) The board may not issue a registration to a business entity as an appraisal manage-
35 ment company unless the board determines that each individual who owns 10 percent or
36 more of the entity and the controlling person identified by the entity in the application:

37 (A) Are of good moral character; and

38 (B) Have never had a license or certification to act as an appraiser refused, denied, can-
39 celed or revoked in this state or in any other state.

40 (4) The board may adopt rules establishing requirements for the qualifications and
41 training of employees of an appraisal management company.

42 (5) An appraisal management company registration expires two years after the date of
43 the issuance of the registration. The board shall adopt rules establishing the requirements
44 for renewal or reactivation of a registration. The rules must include a requirement that the
45 appraisal management company must certify that the company:

1 (a) Has a system to verify that each independent contractor appraiser on the company's
2 appraiser panel is licensed or certified under this chapter and is competent to perform real
3 estate appraisal activity;

4 (b) Has a system to review the work of each independent contractor appraiser who per-
5 forms real estate appraisal activity for the company; and

6 (c) Maintains and retains for at least five years, or as required under ORS 674.150, a de-
7 tailed record of each appraisal management services request the company receives and the
8 independent contractor appraiser who performs the real estate appraisal activity contained
9 in the request.

10 **SECTION 4.** (1) The Appraiser Certification and Licensure Board shall adopt rules es-
11 tablishing a procedure for auditing an appraisal management company registered under sec-
12 tion 3 of this 2010 Act to examine the appraisal management company's effectiveness in
13 fostering appraiser independence, impartiality, objectivity and competence.

14 (2) The board shall audit each appraisal management company registered under section
15 3 of this 2010 Act at least every two years.

16 (3) The board shall issue written findings stating whether the appraisal management
17 company passed or failed the audit.

18 (4) If an appraisal management company fails an audit, the board may impose a civil
19 penalty under section 7 of this 2010 Act.

20 **SECTION 5.** (1) An appraisal management company or an employee, controlling person
21 or agent of an appraisal management company may not:

22 (a) Attempt to influence the development, reporting or review of an appraisal or appraisal
23 review assignment through coercion, extortion, collusion, compensation, instruction, in-
24 ducement, intimidation, bribery or any other manner, including but not limited to:

25 (A) Withholding or threatening to withhold timely payment for an appraisal;

26 (B) Withholding or threatening to withhold future business for an independent contractor
27 appraiser;

28 (C) Expressly or impliedly promising future business, promotions or increased compen-
29 sation for an independent contractor appraiser;

30 (D) Conditioning the request for real estate appraisal activity or any payment on the
31 opinion, conclusion or valuation to be reached, or on a preliminary estimate or opinion re-
32 quested from an independent contractor appraiser;

33 (E) Requesting that an independent contractor appraiser provide an estimated, prede-
34 termined or desired valuation in an appraisal report, or provide estimated values or compa-
35 rable sales at any time prior to the independent contractor appraiser's completion of real
36 estate appraisal activity;

37 (F) Providing to an independent contractor appraiser an anticipated, estimated, encour-
38 aged or desired value for a subject property or a proposed or target amount to be loaned to
39 the borrower, except that a copy of the sales contract for a purchase transaction may be
40 provided;

41 (G) Providing to an independent contractor appraiser, or any entity or individual related
42 to the appraiser, stock or other financial or nonfinancial benefits;

43 (H) Allowing the removal of an independent contractor appraiser from an appraiser panel
44 without prior written notice to the appraiser;

45 (I) Obtaining, using or paying for a second or subsequent appraisal or ordering an auto-

1 mated valuation model in connection with a mortgage financing transaction unless there is
2 a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis
3 is clearly and appropriately noted in the loan file, or unless such appraisal or automated
4 valuation model is done pursuant to an appraisal review or quality control process that is
5 completed before or after a loan is funded; or

6 (J) Any other act or practice that impairs or attempts to impair an appraiser's inde-
7 pendence, objectivity or impartiality.

8 (b) Alter a completed appraisal report submitted by an independent contractor appraiser
9 in any way, including but not limited to:

10 (A) Permanently removing the appraiser's signature or seal; or

11 (B) Adding information to or removing information from the completed appraisal report.

12 (c) Require an independent contractor appraiser to provide the appraisal management
13 company with the appraiser's digital signature or seal.

14 (d) Require an independent contractor appraiser to indemnify the appraisal management
15 company in order to be included on the company's appraiser panel.

16 (2) This section does not prohibit an appraisal management company from requesting
17 that an independent contractor appraiser:

18 (a) Provide additional information about the basis for a valuation; or

19 (b) Correct objective factual errors in a completed appraisal report.

20 **SECTION 6.** Except in the case of breach of contract or substandard performance of real
21 estate appraisal activity, an appraisal management company shall make payment to an in-
22 dependent contractor appraiser for the completion of an appraisal or appraisal review as-
23 signment within 60 days after the appraiser provides the completed appraisal report to the
24 appraisal management company.

25 **SECTION 7.** (1) In accordance with ORS chapter 183, the Appraiser Certification and
26 Licensure Board may impose a civil penalty not to exceed \$25,000 on a person who violates
27 a provision of sections 2 to 6 of this 2010 Act.

28 (2) The civil penalty under this section is in addition to and not in lieu of any other
29 penalty or sanction provided by law.

30 **SECTION 8.** The Appraiser Certification and Licensure Board shall adopt rules estab-
31 lishing a dispute resolution process that allows a person with an interest in a real estate
32 transaction for which an appraisal was conducted to dispute the appraisal.

33 **SECTION 9.** ORS 674.010 is amended to read:

34 674.010. For purposes of this chapter:

35 (1) "Appraisal Foundation" means the Appraisal Foundation established on November 30, 1987,
36 as a not-for-profit corporation under the laws of Illinois.

37 (2) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial In-
38 stitutions Examination Council established pursuant to the federal Act.

39 (3) "Board" means the Appraiser Certification and Licensure Board established under ORS
40 674.305.

41 (4) "Federal Act" means Title XI of the Federal Financial Institutions Reform, Recovery and
42 Enforcement Act of 1989 (12 U.S.C. 3310 et seq.).

43 (5) "Federal financial institution regulatory agency" means:

44 (a) The Board of Governors of the Federal Reserve System;

45 (b) The Federal Deposit Insurance Corporation;

1 (c) The Office of the Comptroller of the Currency;

2 (d) The Office of Thrift Supervision; or

3 (e) The National Credit Union Administration.

4 (6) "Federally related transaction" means any real estate-related financial transaction that:

5 (a) A federal financial institution regulatory agency [*or the Resolution Trust Corporation*] en-
6 gages in, contracts for or regulates; and

7 (b) Requires the services of an appraiser.

8 (7) "Financial institution" means an insured depository institution as defined in section 3 of the
9 Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal
10 Credit Union Act.

11 (8) "Mortgage banker" has the meaning given that term in ORS 86A.100.

12 (9) "Professional real estate activity" has the meaning given that term in ORS 696.010.

13 (10) "Real estate appraisal activity" means the activity described in ORS 674.100.

14 (11) "Real estate-related financial transaction" means any transaction involving:

15 (a) The sale, lease, purchase, investment in or exchange of real property, including interests in
16 real property, or the financing thereof;

17 (b) The refinancing of real property or interests in real property; and

18 (c) The use of real property or interests in real property as security for a loan or investment,
19 including mortgage-backed securities.

20 **(12) "Registered appraisal management company" means a business entity is registered**
21 **as an appraisal management company under section 3 of this 2010 Act.**

22 [(12)] **(13) "State certified appraiser" means an individual who has been certified as a state**
23 **certified appraiser under ORS 674.310.**

24 [(13)] **(14) "State licensed appraiser" means an individual who has been licensed as a state li-**
25 **censed appraiser under ORS 674.310.**

26 [(14)] **(15) "State registered appraiser assistant" means an individual who has been registered**
27 **as a state registered appraiser assistant under ORS 674.310.**

28 **SECTION 10.** ORS 674.020 is amended to read:

29 674.020. The purposes of this chapter are to:

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

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

34 (3) Ensure the availability of state certified appraisers, state licensed appraisers [*and*], state
35 registered appraiser assistants **and registered appraisal management companies** for the per-
36 formance of real estate appraisal activity, including the performance of appraisals in federally re-
37 lated transactions, and to ensure effective supervision of the activities of state certified appraisers,
38 state licensed appraisers [*and*], state registered appraiser assistants **and registered appraisal**
39 **management companies.**

40 **SECTION 11.** ORS 674.100 is amended to read:

41 674.100. (1)(a) A person may not engage in, carry on, advertise or purport to engage in or carry
42 on real estate appraisal activity within this state without first obtaining certification, licensure or
43 registration as provided for in ORS 674.310 **or section 3 of this 2010 Act.**

44 (b) Real estate appraisal activity is the preparation, completion and issuance of an opinion as
45 to the value on a given date or at a given time of real property or an interest in real property,

1 whether the activity is performed in connection with a federally related transaction or is not per-
 2 formed in connection with a federally related transaction. Notwithstanding any other provision of
 3 law, a state certified appraiser [or], a state licensed appraiser **or a registered appraisal manage-**
 4 **ment company:**

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

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

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

14 (a) Is performed by a nonlicensed regular full-time employee of a single owner of real estate, if
 15 the activity involves the real estate of the employer and is incidental to the employee's normal,
 16 nonreal estate activities;

17 (b) Is performed by a nonlicensed regular full-time employee whose activity involves the real
 18 estate of the employer, when the activity is the employee's principal activity, but the employer's
 19 principal activity or business is not the appraisal of real estate;

20 (c) Is performed by an attorney at law rendering services in the performance of duties as an
 21 attorney at law;

22 (d) Is performed by a registered geologist, registered professional engineer or architect render-
 23 ing services as a registered geologist, registered professional engineer or architect;

24 (e) Is performed by a certified public accountant rendering services as a certified public ac-
 25 countant;

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

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

30 (h) Is performed by a salaried employee of the federal government, the State of Oregon or a
 31 political subdivision of the federal government or the State of Oregon while engaged in the per-
 32 formance of the duties of the employee;

33 (i) Is limited to analyzing or advising of permissible land use alternatives, environmental impact,
 34 building and use permit procedures or demographic market studies, if the performance of the activ-
 35 ities does not involve the rendering of an opinion as to the value of the real estate in question;

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

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

41 (L) Is limited to giving an opinion regarding the value of real estate by a person who is not li-
 42 censed under ORS chapter 696, if the person's business is not the appraisal, selling or listing of real
 43 estate and the activity is performed without compensation. This paragraph does not apply to a
 44 person conducting transactional negotiations on behalf of another person for transfer of an interest
 45 in real property;

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

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

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

14 (b) As used in this subsection, “evaluation” means a study of the nature, quality or utility of a
 15 parcel of real estate or interests in, or aspects of, real property in which a value estimate is not
 16 necessarily required.

17 (4)(a) As used in this section, “purport to engage in or carry on real estate appraisal activity”
 18 means the display of a card, sign, advertisement or other printed, engraved or written instrument
 19 bearing the person’s name in conjunction with the term “appraiser,” “licensed appraiser,” “certified
 20 appraiser,” “appraiser assistant,” “registered appraiser assistant,” “**appraisal management com-
 21 pany**” or “appraisal” or an oral statement or representation of certification, licensure or registra-
 22 tion by the Appraiser Certification and Licensure Board made by a person.

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

25 (c) In a proceeding under ORS 674.850 or 674.990, a display or statement described in paragraph
 26 (a) of this subsection shall be considered prima facie evidence that the person named in the display
 27 or making the statement purports to engage in or carry on real estate appraisal activity.

28 **SECTION 12.** ORS 674.140 is amended to read:

29 674.140. The Appraiser Certification and Licensure Board may suspend or revoke the certificate,
 30 license or registration of a state certified appraiser, a state licensed appraiser [*or*], a state regis-
 31 tered appraiser assistant **or a registered appraisal management company**, reprimand a state
 32 certified appraiser, a state licensed appraiser [*or*], a state registered appraiser assistant **or a reg-
 33 istered appraisal management company**, require additional education of a state certified ap-
 34 praiser, a state licensed appraiser or a state registered appraiser assistant or deny the issuance or
 35 renewal of a certificate, license or registration to an applicant if the state certified appraiser, state
 36 licensed appraiser, [*or*] state registered appraiser assistant, **registered appraisal management
 37 company** or applicant has done any of the following:

38 (1) Knowingly or negligently pursued a continued course of material misrepresentation in mat-
 39 ters related to real estate appraisal activity, whether or not damage or injury resulted, or knowingly
 40 or negligently made a material misrepresentation or false material promise in a matter related to
 41 real estate appraisal activity, if the material misrepresentation or material false promise created a
 42 reasonable probability of damage or injury, whether or not damage or injury actually resulted.

43 (2) Disregarded or violated a provision of ORS 674.130 or 674.150 **or sections 2 to 6 of this 2010
 44 Act** or the federal Act or a rule adopted under ORS 674.310 **or sections 2 to 6 of this 2010 Act**.

45 (3) Knowingly or negligently made, printed, distributed or in any manner published materially

1 misleading or untruthful advertising, descriptions or promises, of such character as reasonably to
 2 induce a person to act to the damage or injury of the person, whether or not actual damage or in-
 3 jury resulted.

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

6 (5) Failed [*for any reason*] to pay to the board the annual registry fee provided for under ORS
 7 674.330 (1) or the fees provided for under ORS 674.330 (2).

8 (6) Failed or refused upon demand by the board to produce or to supply for inspection by the
 9 board true copies of any document, book or record in the [*individual's*] **person's** possession or
 10 control or concerning real estate appraisal activity transacted by the [*individual*] **person**.

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

13 (8) Accepted employment or compensation for performing or agreeing to perform a real estate
 14 appraisal activity contingent upon the reporting of a predetermined value or performed real estate
 15 appraisal activity on real estate in which the [*individual*] **person** had an undisclosed interest.

16 (9) Entered a plea of nolo contendere or been found guilty of, or been convicted of, a felony or
 17 misdemeanor substantially related to the [*individual's*] **person's** trustworthiness or competence to
 18 engage in real estate appraisal activity.

19 (10) Knowingly authorized, directed or aided in the publication, advertisement, distribution or
 20 circulation of a material false statement or material misrepresentation concerning the
 21 [*individual's*] **person's** business.

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

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

27 (13) Committed an act or conduct, whether of the same or of a different character specified in
 28 this section and whether or not in the course of real estate appraisal activity, that:

29 (a) Constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest,
 30 fraudulent or improper dealings; and

31 (b) Is substantially related to the fitness of the applicant or holder of a certificate, license or
 32 registration to conduct real estate appraisal activity.

33 **SECTION 13.** ORS 674.150 is amended to read:

34 674.150. [*Every*] **A** state certified appraiser [*and every*], state licensed appraiser **or registered**
 35 **appraisal management company** shall maintain records of all real estate appraisal activity con-
 36 ducted by the appraiser **or company**. The records [*shall*] **must** at all times be open for inspection
 37 by the Appraiser Certification and Licensure Board or its duly authorized representatives. The re-
 38 cords [*shall*] **must** be maintained by the appraiser **or company** for a period of not less than five
 39 years after the date of completion of the appraisal to which the record pertains or for a period of
 40 not less than two years after final disposition of a judicial proceeding in which testimony relating
 41 to the records was given, whichever period expires later.

42 **SECTION 14.** ORS 674.160 is amended to read:

43 674.160. (1) If the administrator of the Appraiser Certification and Licensure Board determines
 44 that the standards, qualifications and examinations for licensing, certifying or registration of real
 45 estate appraisers **or appraisal management companies** of another state are substantially similar

1 to the standards, qualifications and examinations required under this chapter and the rules adopted
 2 pursuant thereto, the administrator with approval of the Appraiser Certification and Licensure
 3 Board may enter into a reciprocal agreement with such other state to issue without examination
 4 licenses [or], certificates **or registrations** upon proof of licensing [or], certification **or registration**
 5 in such other state and upon payment of appropriate fees.

6 (2) Reciprocal agreements may be terminated by the administrator with approval of the Ap-
 7 praiser Certification and Licensure Board upon a determination that the other state is not main-
 8 taining and enforcing standards, qualifications and examinations substantially similar to those of
 9 this state.

10 **SECTION 15.** ORS 674.310 is amended to read:

11 674.310. (1) The Appraiser Certification and Licensure Board shall:

12 (a) Have the power to do all things necessary and convenient to carry into effect the provisions
 13 of this chapter and the federal Act and to regulate the activities of state licensed appraisers, state
 14 certified appraisers, [and] state registered appraiser assistants **and appraisal management com-**
 15 **panies** to ensure that real estate appraisals conform to the law in effect on the date of the real
 16 estate appraisal activity.

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

19 **(c) Register appraisal management companies under section 3 of this 2010 Act.**

20 [(c)] **(d)** Supervise the activities of state certified appraisers, state licensed appraisers [and],
 21 state registered appraiser assistants **and registered appraisal management companies** as pro-
 22 vided in this chapter, to ensure that they perform real estate appraisal activity in strict conformance
 23 with the provisions of this chapter and of the federal Act, and that they otherwise comply with the
 24 provisions of this chapter in the conduct of their professional activities.

25 [(d)] **(e)** Establish, keep current and, no less than annually, transmit to the Appraisal Subcom-
 26 mittee a roster listing state certified appraisers and state licensed appraisers.

27 [(e)] **(f)** Collect and remit annual registry fees as required by ORS 674.330.

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

31 (a) Establishing programs for the certification, licensure or registration of [individuals] **persons**
 32 who engage in real estate appraisal activity.

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

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

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

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

45 (4) The Appraiser Certification and Licensure Board, acting through the administrator, may is-

1 sue subpoenas to compel the attendance of witnesses and the production of papers, books, records,
 2 correspondence, agreements, memoranda and other material or relevant documents in investigations
 3 or proceedings pertaining to the powers and duties of the board.

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

8 **SECTION 16.** ORS 674.320 is amended to read:

9 674.320. The lapsing or suspension of a certificate, license or registration by operation of law,
 10 by order of the Appraiser Certification and Licensure Board, by decision of a court of law or by the
 11 voluntary surrender of a certificate, license or registration by an appraiser [or], appraiser assistant
 12 **or registered appraisal management company** does not deprive the board of jurisdiction to pro-
 13 ceed with any investigation of or any action or disciplinary proceedings against the appraiser [or],
 14 appraiser assistant **or appraisal management company**, or to revise or render null and void an
 15 order suspending or revoking the certificate, license or registration.

16 **SECTION 17.** ORS 674.330 is amended to read:

17 674.330. (1) The Appraiser Certification and Licensure Board shall collect from each state cer-
 18 tified appraiser and each state licensed appraiser an annual registry fee as required by the federal
 19 Act and in an amount determined by the Appraisal Subcommittee. All annual registry fees collected
 20 by the board under this subsection shall be remitted to the Federal Financial Institutions Examina-
 21 tion Council in accordance with the federal Act.

22 (2) Except as provided in subsection (1) of this section and in addition to any fees required by
 23 subsection (1) of this section, the board may establish by rule fees to be charged and collected under
 24 this chapter. The fees established by the board may include, but need not be limited to, fees:

- 25 (a) For each certification or licensure examination administered under ORS 674.310.
- 26 (b) For each certificate or license awarded or issued under ORS 674.310.
- 27 (c) For each renewal of a certificate or license awarded or issued under ORS 674.310.
- 28 (d) For each duplicate certificate [or], license **or registration**, where the original **certificate**,
 29 license **or registration** is lost or destroyed and affidavit made thereof.
- 30 (e) For the renewal of an inactive certificate or license.
- 31 (f) For the reactivation of an inactive certificate or license.

32 **(g) For each registration, renewal or reactivation of registration issued to an appraisal**
 33 **management company under section 3 of this 2010 Act, in an amount sufficient to cover the**
 34 **costs of administering sections 2 to 6 and 7 of this 2010 Act.**

- 35 [(g)] **(h)** For late renewal, in addition to the renewal fee.
- 36 [(h)] **(i)** For a temporary registration provided for under ORS 674.120.
- 37 [(i)] **(j)** For each application.
- 38 [(j)] **(k)** For inactive status.
- 39 [(k)] **(L)** For each walk-in examination.
- 40 [(L)] **(m)** For each appraiser assistant registration.
- 41 [(m)] **(n)** For each appraiser assistant renewal.

42 **SECTION 18.** ORS 674.850 is amended to read:

43 674.850. (1) The Appraiser Certification and Licensure Board may impose a civil penalty, not to
 44 exceed \$500 for each violation, on a person who violates a provision of ORS 674.130 to 674.150 or
 45 a rule or final order of the board or a judgment made by a court upon application of the board.

1 (2) The board may impose a civil penalty on a person who violates ORS 674.100 (1) in an amount
2 that is:

3 (a) Not less than \$100 and not more than \$500 for the first violation; and

4 (b) Not less than \$500 and not more than \$1,000 for a subsequent violation.

5 (3) In addition to the civil penalties set forth in subsection (2) of this section, the board may
6 impose a civil penalty on a person who violates ORS 674.100 (1) in an amount that does not exceed
7 the amount by which the person profited in the transaction in violation of ORS 674.100 (1).

8 (4) The board shall impose civil penalties under this section in the manner provided in ORS
9 183.745.

10 (5)(a) The provisions of this section are in addition to and not in lieu of other enforcement
11 provisions contained in ORS 674.140 and 674.310 **and the civil penalty provision contained in**
12 **section 7 of this 2010 Act.**

13 (b) The civil penalty provisions of subsections (2) and (3) of this section are in addition to and
14 not in lieu of the criminal penalties for uncertified, unlicensed or unregistered real estate appraisal
15 activity in ORS 674.990.

16 (6) The remedies provided in this section are in addition to and not exclusive of other remedies
17 provided by law.

18 **SECTION 19. Sections 2 to 6 and 7 of this 2010 Act and the amendments to ORS 674.010,**
19 **674.020, 674.100, 674.140, 674.150, 674.160, 674.310, 674.320 and 674.330 by sections 9 to 17 of this**
20 **2010 Act apply to persons who perform appraisal management services as defined in section**
21 **2 of this 2010 Act on or after July 1, 2010.**

22 **SECTION 20. (1) Sections 2 to 6 and 7 of this 2010 Act and the amendments to ORS**
23 **674.010, 674.020, 674.100, 674.140, 674.150, 674.160, 674.310, 674.320, 674.330 and 674.850 by**
24 **sections 9 to 18 of this 2010 Act become operative on July 1, 2010.**

25 **(2) The Appraiser Certification and Licensure Board may take any action before the op-**
26 **erative date specified in subsection (1) of this section that is necessary to enable the board**
27 **to exercise, on and after the operative date specified in subsection (1) of this section, all the**
28 **duties, functions and powers conferred on the board by sections 2 to 6 and 7 of this 2010 Act**
29 **and the amendments to ORS 674.010, 674.020, 674.100, 674.140, 674.150, 674.160, 674.310, 674.320,**
30 **674.330 and 674.850 by sections 9 to 18 of this 2010 Act.**

31 **SECTION 21. This 2010 Act being necessary for the immediate preservation of the public**
32 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
33 **on its passage.**

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