

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3624

By COMMITTEE ON RULES

February 23

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the rest of the line and  
2 delete line 3 and insert “705.141; and declaring an emergency.”.

3 Delete lines 5 through 25 and delete pages 2 through 11 and insert:

4 **“SECTION 1. As used in sections 1 to 8 of this 2010 Act:**

5 **“(1)(a) ‘Appraisal management company’ means a business entity that:**

6 **“(A) Performs appraisal management services;**

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

9 **“(C) Otherwise serves as a third-party broker of real estate appraisal activity between**  
10 **clients and appraisers.**

11 **“(b) ‘Appraisal management company’ does not include:**

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

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

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

20 **“(2) ‘Appraisal management services’ means the process of receiving a request for the**  
21 **performance of real estate appraisal activity from a client and, for a fee paid by the client,**  
22 **entering into an agreement with an independent contractor appraiser to perform the real**  
23 **estate appraisal activity contained in the request.**

24 **“(3) ‘Appraiser’ means a state certified appraiser or state licensed appraiser certified or**  
25 **licensed under ORS 674.310.**

26 **“(4) ‘Appraiser panel’ means a group of independent contractor appraisers who have been**  
27 **selected by an appraisal management company to perform real estate appraisal activity for**  
28 **the appraisal management company.**

29 **“(5) ‘Controlling person’ means:**

30 **“(a) An owner, officer or director of an appraisal management company;**

31 **“(b) An individual employed, appointed or authorized by an appraisal management com-**  
32 **pany to enter into an agreement with a client for the performance of appraisal management**  
33 **services or to enter into an agreement with an independent contractor appraiser for the**  
34 **performance of real estate appraisal activity; or**

35 **“(c) An individual who possesses, directly or indirectly, the power to direct the manage-**

1 **ment or policies of an appraisal management company.**

2 **“(6) ‘Financial institution’ has the meaning given that term in ORS 674.010.**

3 **“(7) ‘Real estate appraisal activity’ means the activity described in ORS 674.100.**

4 **“SECTION 2. (1)(a) A person may not provide appraisal management services unless the**  
5 **person is registered as an appraisal management company with the Department of Consumer**  
6 **and Business Services.**

7 **“(b) Notwithstanding ORS 674.100 (3)(a), an affiliate of a financial institution or insurance**  
8 **company may not provide appraisal management services unless the affiliate is registered**  
9 **as an appraisal management company with the department.**

10 **“(2) A business entity may apply for registration as an appraisal management company**  
11 **on forms prescribed by rule by the department. The application must include:**

12 **“(a) The name, address and contact information of the entity;**

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

14 **“(c) If the entity is not domiciled in this state, the name and contact information for the**  
15 **entity’s agent for service of process in this state;**

16 **“(d) The name, address and contact information of any person that owns 10 percent or**  
17 **more of the entity;**

18 **“(e) A certification that:**

19 **“(A) The entity has a system to verify that each appraiser on the entity’s appraiser panel**  
20 **is licensed or certified under ORS 674.310 and is competent to perform real estate appraisal**  
21 **activity;**

22 **“(B) If the entity reviews real estate appraisal activity performed by an appraiser, the**  
23 **review is conducted by another appraiser; and**

24 **“(C) The entity maintains and retains for at least five years, or as required under ORS**  
25 **674.150, a detailed record of each appraisal management services request the entity receives**  
26 **and the appraiser who performs the real estate appraisal activity contained in the request;**

27 **“(f) The surety bond, letter of credit or deposit required by section 3 of this 2010 Act;**

28 **“(g) Fees in an amount prescribed by rule by the department, which must be sufficient**  
29 **to cover the costs of administering sections 1 to 8 and 9 of this 2010 Act;**

30 **“(h) A description of the dispute resolution process required by section 7 of this 2010 Act;**  
31 **and**

32 **“(i) Any other information required by the department by rule.**

33 **“(3) The department may not issue a registration to a business entity as an appraisal**  
34 **management company unless the department determines that each individual who owns 10**  
35 **percent or more of the entity and the controlling person identified by the entity in the ap-**  
36 **plication:**

37 **“(a) Are of good moral character; and**

38 **“(b) Have never had a license, certification or registration to act as an appraiser or ap-**  
39 **praisal management company refused, denied, canceled or revoked in this state or in any**  
40 **other state.**

41 **“(4) An appraisal management company registration expires two years after the date of**  
42 **the issuance of the registration. The department shall adopt rules establishing the require-**  
43 **ments for renewal or reactivation of a registration. The rules must include a requirement**  
44 **that the appraisal management company must certify that:**

45 **“(a) The company has a system to verify that each appraiser on the company’s appraiser**

1 panel is licensed or certified under ORS 674.310 and is competent to perform real estate ap-  
2 praisal activity;

3 “(b) If the company reviews real estate appraisal activity performed by an appraiser, the  
4 review is conducted by another appraiser; and

5 “(c) The company maintains and retains for at least five years, or as required under ORS  
6 674.150, a detailed record of each appraisal management services request the company re-  
7 ceives and the appraiser who performs the real estate appraisal activity contained in the  
8 request.

9 “SECTION 3. (1) An applicant for issuance or renewal of an appraisal management com-  
10 pany registration shall file with the Department of Consumer and Business Services a surety  
11 bond with one or more corporate sureties authorized to do business in this state, or an  
12 irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, in the  
13 amount of \$25,000.

14 “(2) The surety bond or letter of credit required under subsection (1) of this section  
15 must:

16 “(a) Be conditioned that the applicant pays:

17 “(A) All amounts owing to persons who perform real estate appraisal activity for the  
18 appraisal management company; and

19 “(B) All amounts adjudged against the appraisal management company by reason of  
20 negligent or improper real estate appraisal activity or appraisal management services or  
21 breach of contract in performing real estate appraisal activity or appraisal management  
22 services; and

23 “(b) Require the surety company to provide written notice to the department by regis-  
24 tered or certified mail:

25 “(A) At least 30 days before the surety company cancels or revokes the bond; or

26 “(B) When the surety company pays for a loss under the bond.

27 “(3) In lieu of the surety bond or letter of credit required under subsection (1) of this  
28 section, the appraisal management company may file with the department, under the same  
29 terms and conditions as when a bond is filed, a deposit in cash or negotiable securities ac-  
30 ceptable to the department.

31 “(4) The surety bond, letter of credit or deposit required by this section must be contin-  
32 uously on file with the department in the amount of \$25,000 and is for the exclusive purpose  
33 of payment of the obligations listed in subsection (2) of this section. Upon termination or  
34 cancellation of the bond, withdrawal of the deposit or reduction of the bond, letter of credit  
35 or deposit to less than \$25,000, a registered appraisal management company shall:

36 “(a) File a replacement bond, letter of credit or deposit within the time period established  
37 by the department by rule; or

38 “(b) Surrender the company’s registration to the department and cease operating as an  
39 appraisal management company.

40 “(5) Any person damaged by an appraisal management company’s failure to pay an obli-  
41 gation listed in subsection (2) of this section has a right of action under the bond. An action  
42 under the bond must be commenced within one year after the appraisal management com-  
43 pany fails to pay the amount owing or the amount adjudged against the appraisal manage-  
44 ment company.

45 “SECTION 4. (1) The Department of Consumer and Business Services shall adopt rules

1 establishing a procedure for auditing an appraisal management company registered under  
2 section 2 of this 2010 Act to examine the appraisal management company's compliance with  
3 sections 1 to 8 of this 2010 Act.

4 “(2) The department shall audit each appraisal management company registered under  
5 section 2 of this 2010 Act at least every two years.

6 “(3) The department shall issue written findings on the results of the audit.

7 “(4) If an appraisal management company fails an audit, the department may impose a  
8 civil penalty under section 9 of this 2010 Act.

9 “SECTION 5. (1) An appraisal management company or an employee, controlling person  
10 or agent of an appraisal management company may not:

11 “(a) Attempt to influence the development, reporting or review of an appraisal or ap-  
12 praisal review assignment through coercion, extortion, collusion, compensation, instruction,  
13 inducement, intimidation, bribery or any other manner, including but not limited to:

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

15 “(B) Withholding or threatening to withhold future business for an independent con-  
16 tractor appraiser;

17 “(C) Expressly or impliedly promising future business, promotions or increased compen-  
18 sation for an appraiser;

19 “(D) Conditioning the request for real estate appraisal activity or any payment on the  
20 opinion, conclusion or valuation to be reached, or on a preliminary estimate or opinion re-  
21 quested from an appraiser;

22 “(E) Requesting that an appraiser provide an estimated, predetermined or desired valu-  
23 ation in an appraisal report, or provide estimated values or comparable sales at any time  
24 prior to the appraiser's completion of real estate appraisal activity;

25 “(F) Providing to an appraiser an anticipated, estimated, encouraged or desired value for  
26 a subject property or a proposed or target amount to be loaned to the borrower, except that  
27 a copy of the sales contract for a purchase transaction may be provided;

28 “(G) Providing to an appraiser, or any entity or individual related to the appraiser, stock  
29 or other financial or nonfinancial benefits;

30 “(H) Allowing the removal of an appraiser from an appraiser panel without prior written  
31 notice to the appraiser;

32 “(I) Obtaining, using or paying for a second or subsequent appraisal or ordering an au-  
33 tomated valuation model in connection with a mortgage financing transaction unless there  
34 is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis  
35 is clearly and appropriately noted in the loan file, or unless such appraisal or automated  
36 valuation model is done pursuant to an appraisal review or quality control process that is  
37 completed by an appraiser before or after a loan is funded; or

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

40 “(b) Substantively alter in any way a completed appraisal report submitted by an ap-  
41 praiser.

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

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

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

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

2           “**SECTION 6.** Except in the case of breach of contract or substandard performance of  
3 real estate appraisal activity, an appraisal management company shall make payment to an  
4 independent contractor appraiser for the completion of an appraisal or appraisal review as-  
5 signment within 60 days after the appraiser provides the completed appraisal report to the  
6 appraisal management company.

7           “**SECTION 7.** The Department of Consumer and Business Services shall adopt rules re-  
8 quiring an appraisal management company to establish a dispute resolution process that al-  
9 lows a person with an interest in a real estate transaction for which an appraisal was  
10 arranged by the appraisal management company to dispute the appraisal.

11           “**SECTION 8.** (1) The Department of Consumer and Business Services may suspend or  
12 revoke an appraisal management company registration for a violation of sections 1 to 8 of  
13 this 2010 Act or of rules adopted by the department.

14           “(2) The revocation, lapsing or suspension of an appraisal management company regis-  
15 tration does not deprive the department of jurisdiction to proceed with any investigation of  
16 or any action or disciplinary proceedings against the appraisal management company, or to  
17 revise or render null and void an order suspending or revoking the registration.

18           “**SECTION 9.** (1) In accordance with ORS chapter 183, the Department of Consumer and  
19 Business Services may impose a civil penalty not to exceed \$15,000 on a person who violates  
20 a provision of sections 1 to 8 of this 2010 Act.

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

23           “**SECTION 10.** ORS 705.141 is amended to read:

24           “705.141. For the purpose of requesting a state or nationwide criminal records check under ORS  
25 181.534, the Department of Consumer and Business Services may require the fingerprints of a person  
26 who is applying for a license **or registration**, or renewal of a license **or registration**, under ORS  
27 744.001, 744.059 or 744.326 **or section 2 of this 2010 Act** or a person who:

28           “(1)(a) Is employed or applying for employment by the department; or

29           “(b) Provides services or seeks to provide services to the department as a contractor, vendor  
30 or volunteer; and

31           “(2) Is, or will be, working or providing services in a position:

32           “(a) In which the person is providing information technology services and has control over, or  
33 access to, information technology systems that would allow the person to harm the information  
34 technology systems or the information contained in the systems;

35           “(b) In which the person has access to information that state or federal laws, rules or regu-  
36 lations prohibit disclosing or define as confidential;

37           “(c) That has payroll functions or in which the person has responsibility for receiving, receipting  
38 or depositing money or negotiable instruments, for billing, collections or other financial transactions  
39 or for purchasing or selling property or has access to property held in trust or to private property  
40 in the temporary custody of the state;

41           “(d) That has mailroom duties as a primary duty or job function;

42           “(e) In which the person has responsibility for auditing the department;

43           “(f) That has personnel or human resources functions as a primary responsibility;

44           “(g) In which the person has access to Social Security numbers, dates of birth or criminal  
45 background information of employees or members of the public; or

