

## HOUSE AMENDMENTS TO HOUSE BILL 2499

By COMMITTEE ON GENERAL GOVERNMENT AND CONSUMER PROTECTION

April 19

- 1 On page 1 of the printed bill, line 3, delete “to” and insert “, 2, 3, 4, 5, 6, 7, 8 and”.
- 2 In line 28, delete “2011” and insert “2013”.
- 3 On page 2, line 3, delete “beginning July 1, 2011” and insert “ending June 30, 2013”.
- 4 On page 4, line 27, after “completeness” insert “in relation to client specifications”.
- 5 Delete lines 34 through 45 and delete page 5.
- 6 On page 6, delete lines 1 through 8 and insert:
- 7 “**SECTION 9.** Section 2, chapter 87, Oregon Laws 2010, is amended to read:
- 8 “**Sec. 2.** (1)[(a)] A person may not [*provide appraisal management services*] **directly or indirectly**
- 9 **engage in or attempt to engage in business as an appraisal management company or adver-**
- 10 **tise or represent that the entity is an appraisal management company** unless the person is:
- 11 “(a) Registered as an appraisal management company with the [*Department of Consumer and*
- 12 *Business Services*] **Appraiser Certification and Licensure Board; or**
- 13 “(b) **An appraisal management company that is a subsidiary of and owned and controlled**
- 14 **by a financial institution regulated by a federal financial institution regulatory agency, as**
- 15 **that term is defined in ORS 674.010.**
- 16 “[*(b) Notwithstanding ORS 674.100 (3)(a), an affiliate of a financial institution or insurance com-*
- 17 *pany may not provide appraisal management services unless the affiliate is registered as an appraisal*
- 18 *management company with the department.*]
- 19 “(2) A business entity may apply for registration as an appraisal management company on forms
- 20 prescribed by rule by the [*department*] **board.** The application must include:
- 21 “(a) The name, address and **phone** contact information of the entity;
- 22 “(b) The name, address and **phone** contact information of a controlling person of the entity;
- 23 “(c) If the entity is not domiciled in this state, the name and **phone** contact information for the
- 24 entity’s agent for service of process in this state;
- 25 “(d) The name, address and **phone** contact information of any person that owns 10 percent or
- 26 more of the entity;
- 27 “(e) A certification that:
- 28 “(A) The entity has a system to verify that each appraiser on the entity’s appraiser panel is li-
- 29 censed or certified under ORS 674.310 [*and is competent to perform real estate appraisal activity*];
- 30 “[*(B) If the entity reviews real estate appraisal activity performed by an appraiser, the review is*
- 31 *conducted by another appraiser; and*]
- 32 “(B) **The entity requires an appraiser completing an appraisal at the entity’s request to**
- 33 **confirm that the appraiser is competent to perform the appraisal assignment before accept-**
- 34 **ing the assignment;**
- 35 “(C) **The entity requires appraisers completing appraisals at the entity’s request to**

1 **comply with the Uniform Standards of Professional Appraisal Practice;**

2 **“(D) The entity has a system in place to require that appraisals are conducted inde-**  
3 **pendently and without inappropriate influence or coercion as required by the appraisal inde-**  
4 **pendence standards established under section 129E of the Truth in Lending Act; and**

5 *“(C) (E) The entity 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 entity receives and the*  
7 *appraiser who performs the real estate appraisal activity contained in the request;*

8 **“(f) The surety bond, letter of credit or deposit required by section 3 [of this 2010 Act], chapter**  
9 **87, Oregon Laws 2010;**

10 **“(g) Fees in an amount prescribed by rule by the [department] board, which must be sufficient**  
11 **to cover the costs of administering sections 1 to 8 and 9 [of this 2010 Act], chapter 87, Oregon**  
12 **Laws 2010; and**

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

14 *“(i) (h) Any other information required by the [department] board by rule.*

15 **“(3) The [department] board may not issue a registration to a business entity as an appraisal**  
16 **management company unless:**

17 **“(a) Each individual who owns 10 percent or more of the entity and the controlling person**  
18 **identified by the entity in the application have completed a criminal records check; and**

19 **“(b) The [department] board determines that each individual who owns 10 percent or more of**  
20 **the entity and the controlling person identified by the entity in the application:**

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

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

24 **“(4)(a) The board shall issue a unique registration number to each appraisal management**  
25 **company registered under this section.**

26 **“(b) The board shall maintain a published list of appraisal management companies regis-**  
27 **tered under this section.**

28 **“(c) An appraisal management company registered under this section shall disclose the**  
29 **company’s registration number to each appraiser used by the company.**

30 *“(4) (5) An appraisal management company registration expires two years after the date of the*  
31 *issuance of the registration. The [department] board shall adopt rules establishing the requirements*  
32 *for renewal or reactivation of a registration. The rules must **require that an appraisal manage-***  
33 ***ment company provide all of the information and certifications required for an initial appli-***  
34 ***cation for registration under subsection (2) of this section in the renewal application. [include***  
35 ***a requirement that the appraisal management company must certify that:]***

36 *“(a) The company has a system to verify that each appraiser on the company’s appraiser panel is*  
37 *licensed or certified under ORS 674.310 and is competent to perform real estate appraisal activity;]*

38 *“(b) If the company reviews real estate appraisal activity performed by an appraiser, the review*  
39 *is conducted by another appraiser; and]*

40 *“(c) The company maintains and retains for at least five years, or as required under ORS 674.150,*  
41 *a detailed record of each appraisal management services request the company receives and the ap-*  
42 *praiser who performs the real estate appraisal activity contained in the request.]”.*

43 **On page 7, delete lines 9 through 45.**

44 **On page 8, delete lines 1 through 20 and insert:**

45 **“SECTION 12. Section 5, chapter 87, Oregon Laws 2010, is amended to read:**

1       “**Sec. 5.** (1) An appraisal management company or an employee, controlling person or agent of  
2 an appraisal management company may not:

3       “(a) Attempt to influence the development[,] **or reporting of an appraisal or appraisal review**  
4 *[of an appraisal or appraisal review assignment]* through coercion, extortion, collusion, compensation,  
5 *[instruction,]* inducement, intimidation, bribery or any other manner, including but not limited to:

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

7           “(B) Withholding or threatening to withhold future business for an *[independent contractor]* ap-  
8 praiser;

9           “(C) Expressly or impliedly promising future business, promotions or increased compensation for  
10 an appraiser;

11          “(D) Conditioning the *[request for real estate appraisal activity]* **ordering of an appraisal report**  
12 or any payment on the opinion, conclusion or valuation to be reached, or on a preliminary estimate  
13 or opinion requested from an appraiser;

14          “(E) Requesting that an appraiser provide an estimated, predetermined or desired valuation in  
15 an appraisal report, or provide estimated values or comparable sales at any time prior to the  
16 appraiser’s completion of real estate appraisal activity;

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

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

22          “*[(H) Allowing the removal of an appraiser from an appraiser panel without prior written notice*  
23 *to the appraiser;]*

24          “*[(I) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated*  
25 *valuation model in connection with a mortgage financing transaction unless there is a reasonable basis*  
26 *to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately*  
27 *noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to an*  
28 *appraisal review or quality control process that is completed by an appraiser before or after a loan is*  
29 *funded; or]*

30          “*[(J) Any other act or practice that impairs or attempts to impair an appraiser’s independence,*  
31 *objectivity or impartiality.]*

32       “(b) **Require an appraiser to accept an appraisal assignment if the appraiser has notified**  
33 **the company that the appraiser declines the assignment because the assignment must be**  
34 **completed within a time frame that the appraiser, in the appraiser’s professional judgment,**  
35 **believes does not afford the appraiser the ability to meet the appraiser’s legal and profes-**  
36 **sional obligations;**

37       “(c) **Require an appraiser to accept an appraisal assignment if the appraiser has notified**  
38 **the company that the appraiser declines the assignment because, in the appraiser’s profes-**  
39 **sional judgment, the appraiser does not have the necessary expertise for the assignment;**

40       “(d) **Prohibit lawful communications between the appraiser and any other person who the**  
41 **appraiser, in the appraiser’s professional judgment, believes possesses information that**  
42 **would be relevant;**

43       “(e) **Knowingly require an appraiser to take any action that does not comply with the**  
44 **provisions of ORS chapter 674, the rules of the Appraiser Certification and Licensure Board**  
45 **or any assignment conditions and certifications required by the client for whom an appraisal**

1 is being performed;

2 “(f) Require an appraiser to indemnify the appraisal management company or any other  
3 party against liability, damages, losses or claims that arise out of any act or conduct of the  
4 appraisal management company or that do not arise out of the services performed by the  
5 appraiser;

6 “(g) Prohibit an appraiser from reporting the fee paid to the appraiser in the appraisal  
7 report;

8 “(h) Allow a person to perform an appraisal review relating to a property located in this  
9 state if the person is not an appraiser with the licensure required to perform the appraisal  
10 review;

11 “[b] (i) Substantively alter in any way a completed appraisal report submitted by an  
12 appraiser[.]; or

13 “(j) Except within the first 90 days after an appraiser is added to the company’s appraiser  
14 panel, remove the appraiser from the appraiser panel without prior written notice to the  
15 appraiser, including notice of evidence of the reason for removal.

16 “(2) [This section does not prohibit] An appraisal management company [from requesting] may  
17 request, on behalf of and with the approval of a financial institution at the request of a consumer,  
18 that an appraiser:

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

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

21 “(c) Consider the [values] prices of other comparable properties.”.

22 In line 37, after “may” insert “deny registration or renewal of registration to an appraisal  
23 management company or”.

24 On page 9, line 5, delete “affect” and insert “have a material effect on”.

25 Delete lines 6 through 11 and insert:

26 “**SECTION 18. The Appraiser Certification and Licensure Board shall adopt rules requir-**  
27 **ing an appraisal management company to provide documentation to the board showing that**  
28 **the appraisal management company provides training, in accordance with rules adopted by**  
29 **the board, to employees of the appraisal management company who:**

30 “(1) Select appraisers for an appraiser panel;

31 “(2) Select appraisers to perform real estate activity; or

32 “(3) Perform quality control examinations.”.

33 After line 21, insert:

34 “(i) Annual appraisal management company registry fees in an amount determined by the Ap-  
35 praisal Subcommittee of the Federal Financial Institutions Examination Council as set forth in fed-  
36 eral law.”.

37 In line 26, after “penalty” insert a comma.

38 In line 27, after “\$15,000” insert “for each violation.”.

39 In line 28, after “2010” insert “, or any rule adopted by the board under sections 1 to 8, chapter  
40 87, Oregon Laws 2010”.

41 On page 12, line 11, delete “September 1, 2011” and insert “January 1, 2012”.

42 In line 17, delete “September 1, 2011” and insert “January 1, 2012”.