

House Bill 2499

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

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**.

Transfers duties, functions and powers of Department of Consumer and Business Services relating to appraisal management companies to Appraiser Certification and Licensure Board on September 1, 2011.

Modifies provisions relating to appraisal management companies.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to appraisal management companies; creating new provisions; amending ORS 674.305, 674.310 and 705.141 and sections 1 to 9, chapter 87, Oregon Laws 2010; and declaring an emergency.

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

TRANSFER

SECTION 1. The duties, functions and powers of the Department of Consumer and Business Services relating to appraisal management companies are imposed upon, transferred to and vested in the Appraiser Certification and Licensure Board.

RECORDS, PROPERTY, EMPLOYEES

SECTION 2. (1) The Director of the Department of Consumer and Business Services shall deliver to the Appraiser Certification and Licensure Board all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 1 of this 2011 Act.

(2) The Appraiser Certification and Licensure Board shall take possession of the records and property.

(3) The Governor shall resolve any dispute between the Department of Consumer and Business Services and the Appraiser Certification and Licensure Board relating to transfers of records or property under this section, and the Governor's decision is final.

UNEXPENDED REVENUES

SECTION 3. (1) The unexpended balances of amounts authorized to be expended by the Department of Consumer and Business Services for the biennium ending June 30, 2011, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for

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 the purpose of administering and enforcing the duties, functions and powers transferred by
 2 section 1 of this 2011 Act are transferred to and are available for expenditure by the Ap-
 3 praiser Certification and Licensure Board for the biennium beginning July 1, 2011, for the
 4 purpose of administering and enforcing the duties, functions and powers transferred by sec-
 5 tion 1 of this 2011 Act.

6 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
 7 expenditures by the department remain applicable to expenditures by the board under this
 8 section.

9
 10 **ACTION, PROCEEDING, PROSECUTION**

11
 12 **SECTION 4.** The transfer of duties, functions and powers to the Appraiser Certification
 13 and Licensure Board by section 1 of this 2011 Act does not affect any action, proceeding or
 14 prosecution involving or with respect to such duties, functions and powers begun before and
 15 pending at the time of the transfer, except that the board is substituted for the Department
 16 of Consumer and Business Services in the action, proceeding or prosecution.

17
 18 **LIABILITY, DUTY, OBLIGATION**

19
 20 **SECTION 5.** (1) Nothing in sections 1 to 7 of this 2011 Act relieves a person of a liability,
 21 duty or obligation accruing under or with respect to the duties, functions and powers
 22 transferred by section 1 of this 2011 Act. The Appraiser Certification and Licensure Board
 23 may undertake the collection or enforcement of any such liability, duty or obligation.

24 (2) The rights and obligations of the Department of Consumer and Business Services le-
 25 gally incurred under contracts, leases and business transactions executed, entered into or
 26 begun before the operative date of section 1 of this 2011 Act accruing under or with respect
 27 to the duties, functions and powers transferred by section 1 of this 2011 Act are transferred
 28 to the board. For the purpose of succession to these rights and obligations, the board is a
 29 continuation of the department and not a new authority.

30
 31 **RULES**

32
 33 **SECTION 6.** Notwithstanding the transfer of duties, functions and powers by section 1
 34 of this 2011 Act, the rules of the Department of Consumer and Business Services with re-
 35 spect to such duties, functions or powers that are in effect on the operative date of section
 36 1 of this 2011 Act continue in effect until superseded or repealed by rules of the Appraiser
 37 Certification and Licensure Board. References in such rules of the department to the de-
 38 partment or an officer or employee of the department are considered to be references to the
 39 board or an officer or employee of the board.

40 **SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 41 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 42 the context of the duties, functions and powers transferred by section 1 of this 2011 Act,
 43 reference is made to the Department of Consumer and Business Services, or an officer or
 44 employee of the department, whose duties, functions or powers are transferred by section 1
 45 of this 2011 Act, the reference is considered to be a reference to the Appraiser Certification

1 and Licensure Board or an officer or employee of the board who by this 2011 Act is charged
2 with carrying out such duties, functions and powers.

3
4 **APPRAISAL MANAGEMENT COMPANIES**

5
6 **SECTION 8.** Section 1, chapter 87, Oregon Laws 2010, is amended to read:

7 **Sec. 1.** As used in sections 1 to 8 [of this 2010 Act], **chapter 87, Oregon Laws 2010:**

8 **(1) “Appraisal” means the process of developing an opinion of the value of real property**
9 **in conformance with commonly accepted standards for appraisers.**

10 [(1)(a) “Appraisal management company” means a business entity that:]

11 [(A) Performs appraisal management services;]

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

14 [(C) Otherwise serves as a third-party broker of real estate appraisal activity between clients and
15 appraisers.]

16 [(b) “Appraisal management company” does not include:]

17 [(A) An appraiser who in the normal course of business enters into an agreement with another
18 appraiser for the performance of real estate appraisal activity that the hiring appraiser cannot
19 complete;]

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

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

24 **(2)(a) “Appraisal management company” means, in connection with valuing properties**
25 **collateralizing mortgage loans or mortgages incorporated into a securitization, an external**
26 **third party that:**

27 **(A) Oversees an appraisal panel of more than 15 appraisers in Oregon or at least 25 ap-**
28 **praisers in the United States; and**

29 **(B) Is authorized by a client to:**

30 **(i) Recruit, select and retain appraisers;**

31 **(ii) Contract with appraisers to perform appraisal assignments;**

32 **(iii) Manage the process of having an appraisal performed, including providing adminis-**
33 **trative duties such as receiving appraisal orders and appraisal reports, submitting completed**
34 **appraisal reports to creditors and underwriters, collecting fees from creditors and under-**
35 **writers for services provided and reimbursing appraisers for services performed; or**

36 **(iv) Review and verify the work of appraisers.**

37 **(b) “Appraisal management company” does not include an entity that employs real estate**
38 **appraisers exclusively as employees for the performance of real estate appraisal activity.**

39 [(2)] **(3) “Appraisal management services” means the process of receiving a request for the per-**
40 **formance of real estate appraisal activity from a client and, for a fee paid by the client, entering into**
41 **an agreement with an independent contractor appraiser to perform the real estate appraisal activity**
42 **contained in the request.**

43 **(4)(a) “Appraisal review” means the act or process of developing and communicating an**
44 **opinion about the quality of the substantive aspects of another appraiser’s work that was**
45 **performed as part of an appraisal assignment.**

1 **(b) An “appraisal review” is not a quality control examination.**

2 [(3)] **(5) “Appraiser”** means a state certified appraiser or state licensed appraiser certified or
 3 licensed under ORS 674.310.

4 [(4)] **(6) “Appraiser panel”** means a group of [*independent contractor*] appraisers who have been
 5 selected by an appraisal management company to perform real estate appraisal activity for [*the ap-
 6 praisal management company*] **clients.**

7 **(7) “Client” means a creditor of a consumer credit transaction secured by the consumer’s
 8 real estate or an underwriter of or other principal in the secondary mortgage markets that
 9 engages an appraisal management company to perform appraisal management services.**

10 [(5)] **(8) “Controlling person”** means:

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

12 [(b) *An individual employed, appointed or authorized by an appraisal management company to
 13 enter into an agreement with a client for the performance of appraisal management services or to enter
 14 into an agreement with an independent contractor appraiser for the performance of real estate appraisal
 15 activity; or*]

16 **(b) An individual authorized by an appraisal management company to enter into a con-
 17 tractual relationship with:**

18 **(A) A client for the performance of services requiring registration as an appraisal man-
 19 agement company; and**

20 **(B) An appraiser for the performance of appraisals; or**

21 (c) An individual who possesses, directly or indirectly, the power to direct the management or
 22 policies of an appraisal management company.

23 [(6) *“Financial institution” has the meaning given that term in ORS 674.010.*]

24 **(9) “Independent contractor appraiser” means an appraiser who receives a fee for per-
 25 forming an appraisal, but who is not an employee of the person engaging the appraiser.**

26 **(10)(a) “Quality control examination” means an examination of an appraisal report for
 27 compliance and completeness, including examination for grammatical or typographical er-
 28 rors.**

29 **(b) A “quality control examination” is not an appraisal review.**

30 [(7)] **(11) “Real estate appraisal activity”** means the activity described in ORS 674.100.

31 **(12) “Uniform Standards of Professional Appraisal Practice” means the current standards
 32 of the appraisal profession, developed for appraisers and users of appraisal services by the
 33 Appraisal Standards Board of the Appraisal Foundation.**

34 **SECTION 9.** Section 2, chapter 87, Oregon Laws 2010, is amended to read:

35 **Sec. 2.** (1)[(a)] A person may not [*provide appraisal management services*] **directly or indirectly
 36 engage in or attempt to engage in business as an appraisal management company or adver-
 37 tise or represent that the entity is an appraisal management company** unless the person is
 38 registered as an appraisal management company with the [*Department of Consumer and Business
 39 Services*] **Appraiser Certification and Licensure Board.**

40 [(b) *Notwithstanding ORS 674.100 (3)(a), an affiliate of a financial institution or insurance com-
 41 pany may not provide appraisal management services unless the affiliate is registered as an appraisal
 42 management company with the department.*]

43 (2) A business entity may apply for registration as an appraisal management company on forms
 44 prescribed by rule by the [*department*] **board.** The application must include:

45 (a) The name, address and **phone** contact information of the entity;

- 1 (b) The name, address and **phone** contact information of a controlling person of the entity;
- 2 (c) If the entity is not domiciled in this state, the name and **phone** contact information for the
3 entity's agent for service of process in this state;
- 4 (d) The name, address and **phone** contact information of any person that owns 10 percent or
5 more of the entity;
- 6 (e) A certification that:
- 7 (A) The entity has a system to verify that each appraiser on the entity's appraiser panel is li-
8 censed or certified under ORS 674.310 and is competent to perform real estate appraisal activity;
- 9 *[(B) If the entity reviews real estate appraisal activity performed by an appraiser, the review is
10 conducted by another appraiser; and]*
- 11 **(B) The entity requires appraisers completing appraisals at the entity's request to comply
12 with the Uniform Standards of Professional Appraisal Practice;**
- 13 **(C) The entity has a system in place to require that appraisals are conducted independ-
14 ently and without inappropriate influence or coercion as required by the appraisal independ-
15 ence standards established under section 129E of the Truth in Lending Act; and**
- 16 *[(C)]* **(D) The entity maintains and retains for at least five years, or as required under ORS
17 674.150, a detailed record of each appraisal management services request the entity receives and the
18 appraiser who performs the real estate appraisal activity contained in the request;**
- 19 (f) The surety bond, letter of credit or deposit required by section 3 *[of this 2010 Act]*, **chapter
20 87, Oregon Laws 2010;**
- 21 (g) Fees in an amount prescribed by rule by the *[department]* **board**, which must be sufficient to
22 cover the costs of administering sections 1 to 8 and 9 *[of this 2010 Act]*, **chapter 87, Oregon Laws
23 2010; and**
- 24 *[(h) A description of the dispute resolution process required by section 7 of this 2010 Act; and]*
- 25 *[(i)]* **(h) Any other information required by the [department] board by rule.**
- 26 (3) The *[department]* **board** may not issue a registration to a business entity as an appraisal
27 management company unless:
- 28 **(a) Each individual who owns 10 percent or more of the entity and the controlling person
29 identified by the entity in the application have completed a criminal records check; and**
- 30 **(b) The [department] board** determines that each individual who owns 10 percent or more of the
31 entity and the controlling person identified by the entity in the application:
- 32 *[(a)]* **(A) Are of good moral character; and**
- 33 *[(b)]* **(B) Have never had a license, certification or registration to act as an appraiser or ap-
34 praisal management company refused, denied, canceled or revoked in this state or in any other state.**
- 35 **(4)(a) The board shall issue a unique registration number to each appraisal management
36 company registered under this section.**
- 37 **(b) The board shall maintain a published list of appraisal management companies regis-
38 tered under this section.**
- 39 **(c) An appraisal management company registered under this section shall disclose the
40 company's registration number to each appraiser used by the company.**
- 41 *[(4)]* **(5) An appraisal management company registration expires two years after the date of the
42 issuance of the registration. The [department] board shall adopt rules establishing the requirements
43 for renewal or reactivation of a registration. The rules must require that an appraisal manage-
44 ment company provide all of the information and certifications required for an initial appli-
45 cation for registration under subsection (2) of this section in the renewal application. [include**

1 a requirement that the appraisal management company must certify that:]

2 [(a) The company has a system to verify that each appraiser on the company's appraiser panel is
3 licensed or certified under ORS 674.310 and is competent to perform real estate appraisal activity;]

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

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

9 **SECTION 10.** Section 3, chapter 87, Oregon Laws 2010, is amended to read:

10 **Sec. 3.** (1) An applicant for issuance or renewal of an appraisal management company registra-
11 tion shall file with the [Department of Consumer and Business Services] **Appraiser Certification and**
12 **Licensure Board** a surety bond with one or more corporate sureties authorized to do business in
13 this state, or an irrevocable letter of credit issued by an insured institution, as defined in ORS
14 706.008, in the amount of \$25,000.

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

16 (a) Be conditioned that the applicant pays:

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

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

22 (b) Require the surety company to provide written notice to the [department] **board** by registered
23 or certified mail:

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

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

26 (3) In lieu of the surety bond or letter of credit required under subsection (1) of this section, the
27 appraisal management company may file with the [department] **board**, under the same terms and
28 conditions as when a bond is filed, a deposit in cash or negotiable securities acceptable to the [de-
29 partment] **board**.

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

35 (a) File a replacement bond, letter of credit or deposit within the time period established by the
36 [department] **board** by rule; or

37 (b) Surrender the company's registration to the [department] **board** and cease operating as an
38 appraisal management company.

39 (5) Any person damaged by an appraisal management company's failure to pay an obligation
40 listed in subsection (2) of this section has a right of action under the bond. An action under the bond
41 must be commenced within one year after the appraisal management company fails to pay the
42 amount owing or the amount adjudged against the appraisal management company.

43 **SECTION 11.** Section 4, chapter 87, Oregon Laws 2010, is amended to read:

44 **Sec. 4.** (1) The [Department of Consumer and Business Services shall] **Appraiser Certification**
45 **and Licensure Board** may adopt rules establishing a procedure for auditing an appraisal manage-

1 ment company registered under section 2 *[of this 2010 Act]*, **chapter 87, Oregon Laws 2010**, to ex-
 2 amine the appraisal management company's compliance with sections 1 to 8 *[of this 2010 Act]*,
 3 **chapter 87, Oregon Laws 2010**.

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

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

7 *[(4) (2) If an appraisal management company fails an audit, the [department] board may impose*
 8 *a civil penalty under section 9 [of this 2010 Act], chapter 87, Oregon Laws 2010.*

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

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

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

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

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

18 (C) Expressly or impliedly promising future business, promotions or increased compensation for
 19 an appraiser;

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

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

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

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

31 (H) *[Allowing the removal of]* **Except within the first 90 days after an appraiser is added to**
 32 **the company's appraiser panel, removing** an appraiser from an appraiser panel without prior
 33 written notice to the appraiser, **including notice of evidence of the reason for removal;**

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

40 *[(J) Any other act or practice that impairs or attempts to impair an appraiser's independence, ob-*
 41 *jectivity or impartiality.]*

42 **(b) Require an appraiser to prepare an appraisal under a time frame that the appraiser,**
 43 **in the appraiser's professional judgment, believes does not afford the appraiser the ability to**
 44 **meet the appraiser's legal and professional obligations;**

45 **(c) Require an appraiser to prepare an appraisal if the appraiser has notified the company**

1 that, in the appraiser's professional judgment, the appraiser does not have the necessary
 2 expertise for the assignment;

3 (d) Prohibit legal communications between the appraiser and a lender, a real estate
 4 licensee or any other person who the appraiser, in the appraiser's professional judgment,
 5 believes possesses information that would be relevant;

6 (e) Knowingly require an appraiser to take any action that does not comply with the
 7 provisions of ORS chapter 674, the rules of the Appraiser Certification and Licensure Board
 8 or any assignment conditions and certifications required by the client for whom an appraisal
 9 is being performed;

10 (f) Require an appraiser to indemnify the appraisal management company against liabil-
 11 ity, damages, losses or claims except for liability, damages, losses or claims arising out of
 12 the services performed by the appraiser;

13 (g) Prohibit an appraiser from reporting the fee paid to the appraiser in the appraisal
 14 report; or

15 [(b)] (h) [Substantively] Alter in any way a completed appraisal report submitted by an appraiser.

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

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

19 (b) Correct objective factual errors in a completed appraisal report[; or]

20 [(c) Consider the values of other comparable properties].

21 **SECTION 13.** Section 6, chapter 87, Oregon Laws 2010, is amended to read:

22 **Sec. 6.** Except in the case of breach of contract or substandard performance of real estate ap-
 23 praisal activity, an appraisal management company shall make payment to an independent contrac-
 24 tor appraiser for the completion of an appraisal or appraisal review assignment:

25 (1) Within 60 days after the appraiser provides the completed appraisal report to the appraisal
 26 management company[.]; or

27 (2) In accordance with another payment schedule agreed to by the appraiser and the ap-
 28 praisal management company.

29 **SECTION 14.** Section 7, chapter 87, Oregon Laws 2010, is amended to read:

30 **Sec. 7.** The [Department of Consumer and Business Services] **Appraiser Certification and**
 31 **Licensure Board** shall adopt rules requiring an appraisal management company to [establish a dis-
 32 pute resolution process that allows] **forward a complaint from** a person with an interest in a real
 33 estate transaction for which an appraisal was arranged by the appraisal management company to
 34 [dispute the appraisal] **the client that requested the appraisal.**

35 **SECTION 15.** Section 8, chapter 87, Oregon Laws 2010, is amended to read:

36 **Sec. 8.** [(1) The Department of Consumer and Business Services] **The Appraiser Certification**
 37 **and Licensure Board** may suspend or revoke an appraisal management company registration for
 38 a violation of sections 1 to 8 [of this 2010 Act], **chapter 87, Oregon Laws 2010**, or of rules adopted
 39 by the [department] **board.**

40 [(2) The revocation, lapsing or suspension of an appraisal management company registration does
 41 not deprive the department of jurisdiction to proceed with any investigation of or any action or disci-
 42 plinary proceedings against the appraisal management company, or to revise or render null and void
 43 an order suspending or revoking the registration.]

44 **SECTION 16.** Sections 17 to 19 of this 2011 Act are added to and made a part of sections
 45 1 to 8, chapter 87, Oregon Laws 2010.

1 **SECTION 17.** Any employee of an appraisal management company who has reasonable
 2 basis to believe that an appraiser has failed to comply with the Uniform Standards of Pro-
 3 fessional Appraisal Practice, is violating the law or is otherwise engaging in unethical or
 4 unprofessional conduct, shall notify the Appraiser Certification and Licensure Board if the
 5 appraiser’s conduct is likely to affect the value assigned to the real estate being appraised.

6 **SECTION 18.** The Appraiser Certification and Licensure Board shall adopt rules estab-
 7 lishing training requirements and qualifications for employees of appraisal management
 8 companies who:

- 9 (1) Select appraisers for an appraiser panel;
- 10 (2) Select appraisers to perform real estate activity; or
- 11 (3) Perform quality control examinations.

12 **SECTION 19.** (1) The Appraiser Certification and Licensure Board shall establish by rule
 13 fees for appraisal management companies, including but not limited to fees for:

- 14 (a) Application for registration.
- 15 (b) Registration.
- 16 (c) Renewal of registration.
- 17 (d) Duplicate registration.
- 18 (e) Renewal of inactive registration.
- 19 (f) Reactivation of inactive registration.
- 20 (g) Late renewal of registration.
- 21 (h) Inactive status.

22 (2) All moneys collected or received by the board pursuant to this section shall be paid
 23 into the account created by the board under ORS 182.470.

24 **SECTION 20.** Section 9, chapter 87, Oregon Laws 2010, is amended to read:

25 **Sec 9.** (1) In accordance with ORS chapter 183, the [*Department of Consumer and Business*
 26 *Services*] **Appraiser Certification and Licensure Board** may impose a civil penalty not to exceed
 27 \$15,000 on a person who violates a provision of sections 1 to 8 [*of this 2010 Act*], **chapter 87,**
 28 **Oregon Laws 2010.**

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

31 **SECTION 21.** ORS 705.141, as amended by section 10, chapter 87, Oregon Laws 2010, is
 32 amended to read:

33 705.141. For the purpose of requesting a state or nationwide criminal records check under ORS
 34 181.534, the Department of Consumer and Business Services may require the fingerprints of a person
 35 who is applying for a license [*or registration*], or renewal of a license [*or registration*], under ORS
 36 744.001, 744.059 or 744.326 [*or section 2, chapter 87, Oregon Laws 2010,*] or a person who:

- 37 (1)(a) Is employed or applying for employment by the department; or
- 38 (b) Provides services or seeks to provide services to the department as a contractor, vendor or
 39 volunteer; and
- 40 (2) Is, or will be, working or providing services in a position:
 - 41 (a) In which the person is providing information technology services and has control over, or
 42 access to, information technology systems that would allow the person to harm the information
 43 technology systems or the information contained in the systems;
 - 44 (b) In which the person has access to information that state or federal laws, rules or regulations
 45 prohibit disclosing or define as confidential;

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

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

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

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

8 (g) In which the person has access to Social Security numbers, dates of birth or criminal back-
 9 ground information of employees or members of the public; or

10 (h) In which the person has access to tax or financial information about individuals or business
 11 entities.

12 **SECTION 22.** ORS 674.305 is amended to read:

13 674.305. (1) The Appraiser Certification and Licensure Board is established. The board shall
 14 operate as a semi-independent state agency subject to ORS 182.456 to 182.472 for purposes of car-
 15 rying out the provisions of this chapter. The board shall consist of [*seven*] **eight** members. The
 16 members shall be appointed by the Governor and must be residents of this state.

17 (2) The board shall be composed of:

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

19 (b) One individual who is employed by a financial institution or a mortgage banker; [*and*]

20 (c) **One member who represents appraisal management companies registered under sec-**
 21 **tion 2, chapter 87, Oregon Laws 2010; and**

22 [*c*] (d) One individual who is a public member and who:

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

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

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

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

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

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

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

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

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

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

45 **SECTION 23.** ORS 674.310 is amended to read:

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

2 (a) Have the power to do all things necessary and convenient to carry into effect the provisions
3 of this chapter, **sections 1 to 8, chapter 87, Oregon Laws 2010**, and the federal Act and to regu-
4 late the activities of state licensed appraisers, state certified appraisers [*and*], state registered ap-
5 praiser assistants **and appraisal management companies** to ensure that real estate appraisals
6 conform to the law in effect on the date of the real estate appraisal activity.

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

9 **(c) Register appraisal management companies under sections 1 to 8, chapter 87, Oregon**
10 **Laws 2010.**

11 [*c*] (d) Supervise the activities of state certified appraisers, state licensed appraisers [*and*],
12 state registered appraiser assistants **and appraisal management companies** as provided in this
13 chapter **and sections 1 to 8, chapter 87, Oregon Laws 2010**, to ensure that they perform real es-
14 tate appraisal activity in strict conformance with the provisions of this chapter and of the federal
15 Act, and that they otherwise comply with the provisions of this chapter **and sections 1 to 8,**
16 **chapter 87, Oregon Laws 2010**, in the conduct of their professional activities.

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

19 [*e*] (f) Collect and remit [*annual registry*] fees as required [*by*] **under ORS 674.330 and section**
20 **19 of this 2011 Act.**

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

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

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

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

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

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

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

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

UNIT CAPTIONS

SECTION 24. The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

APPLICABILITY

SECTION 25. The amendments to section 2, chapter 87, Oregon Laws 2010, by section 9 of this 2011 Act apply to applications for registration of an appraisal management company submitted on or after September 1, 2011.

OPERATIVE DATE

SECTION 26. (1) Sections 1 to 7 and 17 to 19 of this 2011 Act and the amendments to ORS 674.305, 674.310 and 705.141 and sections 1 to 9, chapter 87, Oregon Laws 2010, by sections 8 to 15 and 20 to 23 of this 2011 Act become operative on September 1, 2011.

(2) The Department of Consumer and Business Services and the Appraiser Certification and Licensure Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department and board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department and board by sections 1 to 7 and 17 to 19 of this 2011 Act and the amendments to ORS 674.305, 674.310 and 705.141 and sections 1 to 9, chapter 87, Oregon Laws 2010, by sections 8 to 15 and 20 to 23 of this 2011 Act.

EMERGENCY CLAUSE

SECTION 27. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.