

# House Bill 3265

Sponsored by Representative HOLVEY

## 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**.

Prohibits financial institution from using broker price opinion to value real property or interest in real property in certain circumstances. Classifies use of broker price opinion as unlawful practice. Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to broker price opinions; creating new provisions; amending ORS 646.607; and declaring an  
3 emergency.

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

5 **SECTION 1. (1)(a) As used in this section, "broker price opinion" means an opinion that**  
6 **a real estate broker, as defined in ORS 696.010, or a person engaging in professional real es-**  
7 **tate activity, as defined in ORS 696.010, provides to a financial institution, as defined in ORS**  
8 **706.008, concerning the value of real property or an interest in real property on a specific**  
9 **date or at a specific time.**

10 (b) "Broker price opinion" does not include real estate appraisal activity, as defined in  
11 ORS 674.010, that a person licensed under ORS chapter 674 performs in accordance with rules  
12 adopted by the Appraiser Certification and Licensure Board.

13 (2) A financial institution may not use a broker price opinion to value real property or  
14 an interest in real property:

15 (a) For the purpose of making a mortgage loan, as defined in ORS 86A.100;

16 (b) In connection with a foreclosure of a trust deed under ORS 86.705 to 86.795 or a  
17 foreclosure of a mortgage or other lien under ORS chapter 88; or

18 (c) In other circumstances where a law requires the use of a real estate appraisal.

19 (3) Violating a provision of subsection (2) of this section is an unlawful practice under  
20 ORS 646.607 that is subject to an investigative demand under ORS 646.618 and to enforcement  
21 in accordance with ORS 646.632.

22 **SECTION 2. ORS 646.607 is amended to read:**

23 646.607. A person engages in an unlawful practice when in the course of the person's business,  
24 vocation or occupation the person:

25 (1) Employs [*any*] **an** unconscionable tactic in connection with [*the sale, rental or other disposi-*  
26 *tion*] **selling, renting or otherwise disposing** of real estate, goods or services, or [*collection or*  
27 *enforcement of*] **collecting or enforcing** an obligation;

28 (2) Fails to deliver all or [*any*] **a** portion of real estate, goods or services as promised, and upon  
29 request of the customer, fails to refund [*any*] money that [*has been*] **the person** received from the  
30 customer [*that was*] for [*the purchase of*] **purchasing** the undelivered real estate, goods or services  
31 and that **the seller does not retain** [*is not retained by the seller*] pursuant to [*any*] **a** right, claim

**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 or defense [*asserted*] **the seller asserts** in good faith. This subsection does not create a warranty  
2 obligation and does not apply to a dispute over the quality of real estate, goods or services delivered  
3 to a customer;

4 (3) Violates ORS 401.965 (2);

5 (4) Violates a provision of ORS 646A.725 to 646A.750;

6 (5) Violates ORS 646A.530; [*or*]

7 (6) Employs a collection practice that is unlawful under ORS 646.639[.]; **or**

8 **(7) Violates section 1 (2) of this 2011 Act.**

9 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**  
10 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
11 **on its passage.**

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