

House Bill 2817

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT

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**.

Provides that real estate appraisal activity includes issuance of opinion as to value associated with energy efficiency of buildings located on real property.

A BILL FOR AN ACT

1
2 Relating to energy efficiency; amending ORS 674.100.

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

4 **SECTION 1.** ORS 674.100 is amended to read:

5 674.100. (1)(a) A person may not engage in, carry on, advertise or purport to engage in or carry
6 on real estate appraisal activity within this state without first obtaining certification, licensure or
7 registration as provided for in ORS 674.310.

8 (b) Real estate appraisal activity is the preparation, completion and issuance of an opinion as
9 to the value on a given date or at a given time of real property or an interest in real property **and**
10 **the value associated with the energy efficiency of any building located on real property**,
11 whether the activity is performed in connection with a federally related transaction or is not per-
12 formed in connection with a federally related transaction.

13 (c) Notwithstanding any other provision of law, a state certified appraiser or a state licensed
14 appraiser:

15 (A) Is not required to be licensed under ORS 696.022 to perform real estate appraisal activity
16 or any other activity that constitutes the giving of an opinion as to the value of real property, [*or*]
17 an interest in real property **or the energy efficiency of a building**; and

18 (B) Is not subject to regulation under ORS 696.010 to 696.495 and 696.600 to 696.995 in con-
19 nection with the performance of real estate appraisal activity or the performance of any other ac-
20 tivity that constitutes the giving of an opinion as to the value of real estate, [*or*] an interest in real
21 estate **or the energy efficiency of a building**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (b) As used in this subsection, "evaluation" means a study of the nature, quality or utility of a
 39 parcel of real estate or interests in, or aspects of, real property in which a value estimate is not
 40 necessarily required.

41 (4)(a) As used in this section, "purport to engage in or carry on real estate appraisal activity"
 42 means the display of a card, sign, advertisement or other printed, engraved or written instrument
 43 bearing the person's name in conjunction with the term "appraiser," "licensed appraiser," "certified
 44 appraiser," "appraiser assistant," "registered appraiser assistant" or "appraisal" or an oral state-
 45 ment or representation of certification, licensure or registration by the Appraiser Certification and

1 Licensure Board made by a person.

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

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

7
