

**PROPOSED AMENDMENTS TO
HOUSE BILL 3419**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and insert “amending ORS 646.607 and 674.100; and declaring
3 an”.

4 Delete lines 5 through 21 and insert:

5 **“SECTION 1. ORS 674.100 is amended to read:**

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

10 “(b) Real estate appraisal activity is [*the preparation, completion and is-*
11 *suance of*] **preparing, completing and issuing** an opinion as to the value
12 on a given date or at a given time of real property or an interest in real
13 property, **regardless of** whether the activity is performed in connection with
14 a federally related transaction [*or is not performed in connection with a*
15 *federally related transaction*]. Notwithstanding any other provision of law, a
16 state certified appraiser or a state licensed appraiser:

17 “(A) Is not required to be licensed under ORS 696.022 to perform real es-
18 tate appraisal activity or any other activity that constitutes [*the*] giving
19 [*of*] an opinion as to the value of real property or an interest in real prop-
20 erty; and

21 “(B) Is not subject to regulation under ORS 696.010 to 696.495 and 696.600
22 to 696.995 in connection with [*the performance of*] **performing** real estate

1 appraisal activity or [*the performance of*] **performing** any other activity that
2 constitutes [*the*] giving [*of*] an opinion as to the value of real estate or an
3 interest in real estate.

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

6 “(a) Is performed by a nonlicensed regular full-time employee of a single
7 owner of real estate, if the activity involves the real estate of the employer
8 and is incidental to the employee’s normal, nonreal estate activities;

9 “(b) Is performed by a nonlicensed regular full-time employee whose ac-
10 tivity involves the real estate of the employer, when the activity is the
11 employee’s principal activity, but the employer’s principal activity or busi-
12 ness is not [*the appraisal of*] **appraising** real estate;

13 “(c) Is performed by an attorney at law rendering services in [*the per-*
14 *formance of*] **performing** duties as an attorney at law;

15 “(d) Is performed by a registered geologist, registered professional engi-
16 neer or architect rendering services as a registered geologist, registered
17 professional engineer or architect;

18 “(e) Is performed by a certified public accountant rendering services as
19 a certified public accountant;

20 “(f) Is performed by a mortgage banker rendering services as a mortgage
21 banker;

22 “(g) Constitutes a letter opinion **as defined in ORS 696.294** or a com-
23 petitive market analysis as [*those terms are*] defined in ORS 696.010 that, by
24 administrative or judicial order or subpoena, is compelled from an individual
25 licensed to engage in professional real estate activity under ORS 696.022;

26 “(h) Is performed by a salaried employee of the federal government, the
27 State of Oregon or a political subdivision of the federal government or the
28 State of Oregon while engaged in [*the performance of*] **performing** the
29 **employee’s** duties [*of the employee*];

30 “(i) Is limited to analyzing or advising of permissible land use alterna-

1 tives, environmental impact, building and use permit procedures or demo-
2 graphic market studies, if [*the performance of*] **performing** the activities does
3 not involve [*the*] rendering [*of*] an opinion as to the value of the real estate
4 in question;

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

9 “(k) Is limited to giving an opinion in an administrative or judicial pro-
10 ceeding regarding the value of real estate for taxation;

11 “(L) Is limited to giving an opinion regarding the value of real estate by
12 a person who is not licensed under ORS chapter 696, if the person’s business
13 is not [*the appraisal*] **appraising**, selling or listing [*of*] real estate and the
14 activity is performed without compensation. This paragraph does not apply
15 to a person [*conducting*] **that conducts** transactional negotiations on behalf
16 of another person for [*transfer of*] **transferring** an interest in real property;

17 “(m) Is limited to transferring or acquiring an interest in real estate by
18 a person who is not licensed under ORS chapter 696; or

19 “(n) Is performed by a home inspector acting within the scope of a cer-
20 tificate or license issued under ORS chapter 701.

21 “(3)(a) Real estate appraisal activity does not include [*an*] **a competitive**
22 **market** analysis, evaluation, **letter** opinion[, *conclusion, notation or compi-*
23 *lation of data*] **or broker price opinion** [*prepared by*] **that** a financial in-
24 stitution or affiliate, a consumer finance company licensed under ORS
25 chapter 725 or an insurance company or affiliate[, *made for internal use only*
26 *by the financial institution or affiliate, consumer finance company or the in-*
27 *surance company or affiliate,*] **prepared and uses only internally** concern-
28 ing an interest in real estate for ownership or collateral purposes. [*by the*
29 *financial institution or affiliate, the consumer finance company licensed under*
30 *ORS chapter 725 or the insurance company or affiliate. Nothing in*] This sub-

1 section [*shall be construed to*] **does not** excuse a financial institution or af-
2 filiate from complying with the provisions of Title XI of the federal Financial
3 Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310
4 et seq.).

5 **“(b) A financial institution or affiliate may not use a competitive**
6 **market analysis, evaluation, letter opinion or broker price opinion to**
7 **value real property or an interest in real property:**

8 **“(A) For the purpose of making a mortgage loan, as defined in ORS**
9 **86A.100; or**

10 **“(B) In connection with a foreclosure of a trust deed under ORS**
11 **86.705 to 86.815 or a foreclosure of a mortgage or other lien under ORS**
12 **chapter 88.**

13 **“(c) Violating a provision of paragraph (b) of this subsection is an**
14 **unlawful practice under ORS 646.607 that is subject to an investigative**
15 **demand under ORS 646.618 and to enforcement in accordance with ORS**
16 **646.632.**

17 **“(d) As used in this subsection:**

18 **“(A) ‘Broker price opinion’ means an opinion that a real estate**
19 **broker, as defined in ORS 696.010, or a person that engages in profes-**
20 **sional real estate activity, as defined in ORS 696.010, provides to a fi-**
21 **ncial institution, as defined in ORS 706.008, or an affiliate of the**
22 **financial institution, concerning the probable selling price of real**
23 **property or an interest in real property on a specific date or at a spe-**
24 **cific time and that may provide a varying amount of detail concerning**
25 **the condition of real property, the market for real property, the**
26 **neighborhood surrounding a parcel of real property or comparable real**
27 **property.**

28 **“(B) ‘Competitive market analysis’ has the meaning given that term**
29 **in ORS 696.010.**

30 **“(C) ‘Evaluation’ means a study of the nature, quality or utility of**

1 a parcel of real estate or interests in or aspects of real property in
2 which a value estimate is not necessarily required.

3 “(D) ‘Letter opinion’ has the meaning given that term in ORS
4 696.294.

5 “[*b*] As used in this subsection, ‘evaluation’ means a study of the nature,
6 quality or utility of a parcel of real estate or interests in, or aspects of, real
7 property in which a value estimate is not necessarily required.]

8 “(4)(a) As used in this section, ‘purport to engage in or carry on real es-
9 tate appraisal activity’ means [*the display of*] **displaying** a card, sign, ad-
10 vertisement or other printed, engraved or written instrument bearing the
11 person’s name in conjunction with the term ‘appraiser,’ ‘licensed appraiser,’
12 ‘certified appraiser,’ ‘appraiser assistant,’ ‘registered appraiser assistant’ or
13 ‘appraisal’ or an oral statement or representation **a person makes con-**
14 **cerning a** [*of*] certification, licensure or registration by the Appraiser Cer-
15 tification and Licensure Board [*made by a person*].

16 “(b) Each display or statement described in paragraph (a) of this sub-
17 section by a person **that is** not licensed, certified or registered by the board
18 is a separate violation under ORS 674.850 or 674.990.

19 “(c) In a proceeding under ORS 674.850 or 674.990, a display or statement
20 described in paragraph (a) of this subsection [*shall be considered*] **is** prima
21 facie evidence that the person named in the display or making the statement
22 purports to engage in or carry on real estate appraisal activity.”.

23 On page 2, delete line 9 and insert:

24 “(9) Violates ORS 674.100 (3)(b).”.

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