



## **LDW Appraisals**

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Representative Paul Holvey, Chair  
House Committee on Business and Labor

Members of the Committee.

My name is Lloyd Werner. I am a real estate appraiser. I am licensed in the State of Oregon as a State Certified General Appraiser, the highest level of licensing issued to real estate appraisers. I have been appraising real estate since 1972.

I am a member of the National Association of Independent Fee Appraisers (NAIFA). I am currently the President of the Oregon Chapter of NAIFA, known as the Portland Rose City Chapter. I have also served on the Board at the National level of NAIFA, and in all 5 National Officer positions of NAIFA, serving as National President of NAIFA in 2003.

I am also a National Instructor for NAIFA and have been since about 1980. I am an Appraisal Qualifications Board (AQB) Certified National USPAP Instructor. I have instructed required USPAP Update courses multiple times a year, every year, since 1990, the inception of the requirement.

I instructed all of the appraisal course offered by Clackamas Community College, Located in Oregon City, for 22 years.

I tell you these things about myself only to help you understand my degree of exposure to, and involvement in the appraisal profession; and to help you determine how much credibility to attach to my comments about HB 2501.

Both the Portland Rose City Chapter of NAIFA and I feel that HB 2501 is a bad bill. We feel it is poorly conceived and poorly drafted, and would be a disastrous statute if enacted.

### **One catastrophic point about HB 2501 is:**

- It specifies that the ACLB shall determine how much appraisers will be paid by AMCs for appraisals!
  - Chapter 674 Real Estate Appraisers and Appraisal of the Oregon Revised Statutes (ORS) would be amended by HB 2501 to read:
  - [page 1, line 23 of the bill] 674.225 (2) An appraisal management company shall compensate independent contractor appraisers at the rates

established by Appraiser Certification and Licensure Board under section 3 of this 2017 Act.

- The following language would be added to Chapter 674 Real Estate Appraisers and Appraisal of the Oregon Revised Statutes (ORS):
- [page 1, line 28 of the bill] SECTION 3. (1) The Appraiser Certification and Licensure Board shall adopt rules establishing the payment rates for independent contractor appraisers. (2) The board shall establish the payment rates based on the customary and reasonable rates of pay for independent contractor appraisers in this state. In calculating the rates, the board shall take into consideration academic studies, independent private sector surveys and any other factor affecting compensation rates.

Discussion concerning this Catastrophic Point:

Appraisal assignments can vary drastically, and frequently do. The assignment conditions of an assignment can cause the time, travel, and amount of research required to vary a great deal from assignment to assignment. All of these factors, and more, have an impact on what a reasonable and customary fee is. It would be beyond of capabilities of the ACLB to establish payment rates that would be generally accepted as customary and reasonable for the huge assortment of appraisal assignments for which AMCs would be called upon to make payment.

More importantly, in our Capitalistic economy, it can be strongly argued that it is inappropriate for a state government to regulate the payment for services provided by a business, and when done upsets the balance of the market place, and invariably has huge and very disruptive unintended consequences. What's next? If appraisal fees are regulated, why not Real Estate Broker Fees and Mortgage Broker fees, which are much larger than appraisal fees, and could be lowered to save the consumer a lot of money. I just paid an increased fee this year for my haircut. Perhaps that is too high and should be regulated.

Also, the terms "customary" and "reasonable" are very subject terms. Their meanings have been debated as they apply to appraisal fees since before the inception of the Home Valuation Code of Conduct (HVCC), which was more-or-less codified by the Dodd-Frank Act, and the debate continues without any generally accepted agreement as to what constitutes "customary" and "reasonable" fees. How much costly ACLB staff time would it take for the ACLB to "take into consideration academic studies, independent private sector surveys and any other factor affecting compensation rates," and still end up with a subjective and controversial payment rate for independent contract appraisers.

- It strikes me as not very difficult to figure out which special interest groups wanted and perhaps were instrumental in getting HB 2501 introduced. You know, there are real estate buyer's markets, and seller's markets, but for decades there was not an appraiser's market. But now, due to several factors...artificially low interest rates, 10% to 12% real estate appreciation, to name a couple, we are finally experiencing an

appraiser's market. And, the lender and broker segments of the real estate industry don't like it. Even though appraisal fees are a pitifully small cost of buying real estate compared to Real Estate Broker commissions and Mortgage Broker fees and commissions. When I was a RE Broker, the RE Brokers fee was quoted as 7%, and was typically 5% to 7% of the sales price (median sales price of \$347,000 x 6% = RE Broker commission of \$20,820). Or, consider the Mortgage Broker fee of thousands of dollars up front and thousands of dollars on the back end of the loan. The RE Broker commission and the Mortgage Broker fee are a couple of places the House of Representatives could make a significant difference if they are really concerned about helping the consumer cut costs. However, I'm not advocating that. I feel it will stifle the market if government regulates prices. Let the market place regulate prices...it does it so beautifully. And, by the way, the market place will regulate appraisal fees very beautifully, if the government doesn't interfere. Most residential appraisers doing lender work indicate that 50% to 60% of their business is due to appraisal assignments for consumers wanting to refinance their mortgage. It will not take much of an interest rate increase by the Federal Reserve Board to completely turn-off the mortgage refinance market, and appraisers will be very competitively seeking appraisal work.

**A second catastrophic point about HB 2501 is:**

- It very subtly opens the door for non-licensed/certified appraisers to perform appraisals, and thus opens the door for the downgrading of the quality of appraisals.
  - Chapter 647 of ORS requires a licensed, certified or registered appraiser to appraise real estate:  
[page 3, line 23 of the bill] “674.100(1)(a) A person may not engage in, carry on, advertise or purport to engage in or carry on real estate appraisal activity within this state without first obtaining certification, licensure or registration as provided for in ORS 674.310.”
  - ORS 674.100(3)(a) then lists exclusions to the requirements of being licensed, certified or registered in order to issue an appraisal. This paragraph of the law allows for a financial institution or affiliate, a consumer finance company or an insurance company or affiliate to allow appraisals without a license when they are appraising property they own or are collateralizing. HB 2501 would subtly change that to open the door for other non-licensed, non-certified, or non-registered individuals to provide appraisals to a financial institution or affiliate, a consumer finance company or an insurance company or affiliate. HB 2501 would accomplish this by adding the words “or for”, show in bold type in HB 2501, which is not currently in ORS 674, but would be added if HB 2501 were enacted. Here is how that portion of HB 2501 is written:  
[page 4, line 31 of the bill] “674.100(3)(a) Real estate appraisal activity does not include an analysis, evaluation, opinion, conclusion, notation or compilation of data prepared by **or for** a financial institution or affiliate,

a consumer finance company licensed under ORS chapter 725 or an insurance company or affiliate, made for internal use only by the financial institution or affiliate, consumer finance company or the insurance company or affiliate, concerning an interest in real estate for ownership or collateral purposes by the financial institution or affiliate, the consumer finance company licensed under ORS chapter 725 or the insurance company or affiliate.”

- This would create a very bad law. It would most likely not only conflicts with the FIRREA of 1989 federal law, and the Dodd-Frank Act, but also would most likely put the State of Oregon out of compliance with the federal Appraisal Subcommittee (ASC), who could conceivably put a freeze on all appraisals done by Oregon State Licensed and State Certified appraisers within the State of Oregon. If such a freeze were mandated by the ASC, it would create a problem for the lending industry that would be much, much greater in magnitude than the rather small “appraiser market” situation that is being currently experienced, and will soon swing the other way, once the interest rates increase enough to stop refinance activity.

**We contend that HB 2501 is not a viable bill, and should not come out of committee.**



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