

February 28, 2017

RE: House Bill 2189

Chair Holvey and Members of the House Committee on Business and Labor:

My name is Bryan Merideth. I am an Oregon State Certified Residential Appraiser and Oregon Taxpayer.

I support HB 2189

Many actions in Oregon have a statute of limitations; however, real estate appraisers do not have any protection from frivolous law suits or time limitations for their work product.

Appraisers are required by Oregon law and USPAP to retain records for five years from the effective date.

OAR 161-025-0050

Records and Appraisal Report Retention Requirements

(1) Every state certified appraiser and every state licensed appraiser shall maintain and have custody of records of all real estate appraisal activity conducted by the appraiser or make appropriate work file retention and/or retrieval arrangements with the party having custody of such records. Such records shall be maintained by the appraiser for a period of at least five years after the date of completion of the appraisal to which the record pertains, or at least two years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

(2) Such records shall at all times be open for inspection by the Board or its duly authorized representatives.

(3) A chronological log of all real estate appraisal activity must be provided by each individual state certified appraiser or state licensed appraiser upon request by the Administrator.

Stat. Auth.: ORS 674.150, 674.305(8) & 674.310

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

It makes complete sense that the statute of limitations for an appraisal report would coincide with the record keeping rules mandated by both state and federal agencies.

To get perspective on current time limitations for acts in Oregon see ORS 131.125 attached below.

Please vote yes on HB 2189

ORS 131.125

Time limitations

(1) A prosecution for aggravated murder, murder, attempted murder or aggravated murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of manslaughter may be commenced at any time after the commission of the attempt, conspiracy or solicitation to commit aggravated murder or murder, or the death of the person killed.

(2) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 30 years of age or within 12 years after the offense is reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

(a) Strangulation under ORS 163.187 (Strangulation) (4).

(b) Criminal mistreatment in the first degree under ORS 163.205 (Criminal mistreatment in the first degree).

(c) Rape in the third degree under ORS 163.355 (Rape in the third degree).

(d) Rape in the second degree under ORS 163.365 (Rape in the second degree).

(e) Rape in the first degree under ORS 163.375 (Rape in the first degree).

(f) Sodomy in the third degree under ORS 163.385 (Sodomy in the third degree).

(g) Sodomy in the second degree under ORS 163.395 (Sodomy in the second degree).

(h) Sodomy in the first degree under ORS 163.405 (Sodomy in the first degree).

(i) Unlawful sexual penetration in the second degree under ORS 163.408 (Unlawful sexual penetration in the second degree).

(j) Unlawful sexual penetration in the first degree under ORS 163.411 (Unlawful sexual penetration in the first degree).

(k) Sexual abuse in the second degree under ORS 163.425 (Sexual abuse in the second degree).

(L) Sexual abuse in the first degree under ORS 163.427 (Sexual abuse in the first degree).

(m) Using a child in a display of sexual conduct under ORS 163.670 (Using child in display of sexually explicit conduct).

(n) Encouraging child sexual abuse in the first degree under ORS 163.684 (Encouraging child sexual abuse in the first degree).

(o) Incest under ORS 163.525 (Incest).

(p) Promoting prostitution under ORS 167.012 (Promoting prostitution).

(q) Compelling prostitution under ORS 167.017 (Compelling prostitution).

(r) Luring a minor under ORS 167.057 (Luring a minor).

(3) A prosecution for any of the following misdemeanors may be commenced within four years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 22

years of age or within four years after the offense is reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

(a) Strangulation under ORS 163.187 (Strangulation) (3).

(b) Sexual abuse in the third degree under ORS 163.415 (Sexual abuse in the third degree).

(c) Exhibiting an obscene performance to a minor under ORS 167.075 (Exhibiting an obscene performance to a minor).

(d) Displaying obscene materials to minors under ORS 167.080 (Displaying obscene materials to minors).

(4) In the case of crimes described in subsection (2)(m) of this section, the victim is the child engaged in sexual conduct. In the case of the crime described in subsection (2)(o) of this section, the victim is the party to the incest other than the party being prosecuted. In the case of crimes described in subsection (2)(p) and (q) of this section, the victim is the child whose acts of prostitution are promoted or compelled.

(5) A prosecution for arson in any degree may be commenced within six years after the commission of the crime.

(6) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime if the victim at the time of the crime was 65 years of age or older:

(a) Theft in the first degree under ORS 164.055 (Theft in the first degree).

(b) Aggravated theft in the first degree under ORS 164.057 (Aggravated theft in the first degree).

(c) Theft by extortion under ORS 164.075 (Theft by extortion).

(d) Robbery in the third degree under ORS 164.395 (Robbery in the third degree).

(e) Robbery in the second degree under ORS 164.405 (Robbery in the second degree).

(f) Robbery in the first degree under ORS 164.415 (Robbery in the first degree).

(g) Forgery in the first degree under ORS 165.013 (Forgery in the first degree).

(h) Fraudulent use of a credit card under ORS 165.055 (Fraudulent use of a credit card) (4)(b).

(i) Identity theft under ORS 165.800 (Identity theft).

(7) Except as provided in subsection (8) of this section or as otherwise expressly provided by law, prosecutions for other offenses must be commenced within the following periods of limitations after their commission:

(a) For any other felony, three years.

(b) For any misdemeanor, two years.

(c) For a violation, six months.

(8) If the period prescribed in subsection (7) of this section has expired, a prosecution nevertheless may be commenced as follows:

(a) If the offense has as a material element either fraud or the breach of a fiduciary obligation, prosecution may be commenced within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall the period of limitation otherwise applicable be extended by more than three years;

(b) If the offense is based upon misconduct in office by a public officer or employee, prosecution may be commenced at any time while the defendant is in public office or employment or within two years thereafter, but in no case shall the period of limitation otherwise applicable be extended by more than three years; or

(c) If the offense is an invasion of personal privacy under ORS 163.700 (Invasion of personal privacy), prosecution may be commenced within one year after discovery of the offense by the person aggrieved by the offense, by a person who has a legal duty to represent the person aggrieved by the offense or by a law enforcement agency, but in no case shall the period of limitation otherwise applicable be extended by more than three years.

(9) Notwithstanding subsection (2) of this section, if the defendant is identified after the period described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample comparisons, a prosecution for:

(a) Rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first degree or sexual abuse in the first degree may be commenced at any time after the commission of the crime.

(b) Rape in the second degree, sodomy in the second degree or unlawful sexual penetration in the second degree may be commenced within 25 years after the commission of the crime.

(10) Notwithstanding subsection (9) of this section, if a prosecution for a felony listed in subsection (9) of this section would otherwise be barred by subsection (2) of this section, the prosecution must be commenced within two years of the DNA-based identification of the defendant.”