

Strong Support for HB 2189

HB 2189 would:

- establish a maximum five-year statute of limitations on civil law suits against appraisers;
- provide constituency with the record keeping requirements of our national standard - the Uniform Standards of Professional Appraisal Practice (USPAP);
- would not apply to cases of fraud and misrepresentation, for which the 2-year discovery rule in ORS 12.110 would continue to apply.

Real estate appraisers in Oregon have been faced with frivolous lawsuits alleging defects in appraisals performed for mortgage lending transactions originated during the 2001-2008 “real estate bubble” that have now gone into default.

- Under current law, the “Discovery Rule” results in an almost infinite statute of limitations for claims against appraisers.
- The time for filing a suit for claims of professional negligence, unjust enrichment, breach of fiduciary duty, breach of contract, etc. doesn’t begin to accrue until the party making the allegation discovers, or should have discovered, the alleged defect that forms the basis for the complaint.
- However, alleged defects in appraisals for mortgage lending purposes are usually not “discovered” by the plaintiffs until the loan has gone into default, and a post-default review of the appraisal is performed by the mortgage holder or entity that has purchased the rights to sue the appraiser – often many years after the appraisal was performed.
- In most cases, the reason for the default has nothing to do with the appraisal or any alleged defects in the appraisal. Rather, the default is usually due to a change in market conditions or a change in circumstances involving the borrower (i.e., job loss, reduction in income, divorce, etc.).
- But, often the appraiser is the “last one standing” with any connection to a defaulted loan, with the original lender, underwriter, and servicer having gone out of business at some time after the loan was originated. In some cases, appraisers have been forced to settle these suits and agree to monetary damages to limit their defense costs and liability.

Most appraisers are small businesses and a lawsuit, or the threat of a lawsuit, can be devastating. We believe that the provisions of HB 2189 will bring certainty to appraisers regarding how long after performing an appraisal they may be sued, and will allow appraisers to adequately manage the risks associated with providing those services.

Please vote yes on HB 2189.

Greater Oregon Chapter of the Appraisal Institute

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