

SB 109-1
(LC 1917)
3/12/19 (HE/ps)

Requested by SENATE COMMITTEE ON BUSINESS AND GENERAL GOVERNMENT

**PROPOSED AMENDMENTS TO
SENATE BILL 109**

1 On page 1 of the printed bill, delete lines 4 through 30 and delete pages
2 2 and 3 and insert:

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

4 “674.100. (1)(a) A person may not engage in, carry on, advertise or purport
5 to engage in or carry on real estate appraisal activity within this state
6 without first obtaining certification, licensure or registration as provided for
7 in ORS 674.310.

8 “(b) Real estate appraisal activity is the preparation, completion and is-
9 suance of an opinion as to the value on a given date or at a given time of
10 real property or an interest in real property, whether the activity is per-
11 formed in connection with a federally related transaction or is not performed
12 in connection with a federally related transaction. Notwithstanding any
13 other provision of law, a state certified appraiser or a state licensed ap-
14 praiser:

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

19 “(B) Is not subject to regulation under ORS 696.010 to 696.495 and 696.600
20 to 696.995 in connection with the performance of real estate appraisal activ-
21 ity or the performance of any other activity that constitutes the giving of

1 an opinion as to the value of real estate or an interest in real estate.

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

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

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

11 “(c) Is performed by an attorney at law rendering services in the per-
12 formance of duties as an attorney at law;

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

16 “(e) Is performed by a certified public accountant rendering services as
17 a certified public accountant;

18 “(f) Is performed by a mortgage banker rendering services as a mortgage
19 banker;

20 “(g) Constitutes a letter opinion or a competitive market analysis as those
21 terms are defined in ORS 696.010 that, by administrative or judicial order
22 or subpoena, is compelled from an individual licensed to engage in profes-
23 sional real estate activity under ORS 696.022;

24 “(h) Is performed by a salaried employee of the federal government, the
25 State of Oregon or a political subdivision of the federal government or the
26 State of Oregon while engaged in the performance of the duties of the em-
27 ployee;

28 “(i) Is limited to analyzing or advising of permissible land use alterna-
29 tives, environmental impact, building and use permit procedures or demo-
30 graphic market studies, if the performance of the activities does not involve

1 the rendering of an opinion as to the value of the real estate in question;

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

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

8 “(L) Is limited to giving an opinion regarding the value of real estate by
9 a person who is not licensed under ORS chapter 696, if the person’s business
10 is not the appraisal, selling or listing of real estate and the activity is per-
11 formed without compensation. This paragraph does not apply to a person
12 conducting transactional negotiations on behalf of another person for trans-
13 fer of an interest in real property;

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

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

18 “(3)(a) Real estate appraisal activity does not include an analysis, evalu-
19 ation, opinion, conclusion, notation or compilation of data prepared by **or**
20 **for** a financial institution or affiliate, a consumer finance company licensed
21 under ORS chapter 725 or an insurance company or affiliate, made for
22 internal use only by the financial institution or affiliate, consumer finance
23 company or the insurance company or affiliate, concerning an interest in
24 real estate for ownership or collateral purposes by the financial institution
25 or affiliate, the consumer finance company licensed under ORS chapter 725
26 or the insurance company or affiliate. Nothing in this subsection shall be
27 construed to excuse a financial institution or affiliate from complying with
28 the provisions of Title XI of the federal Financial Institutions Reform, Re-
29 covery and Enforcement Act of 1989 (12 U.S.C. 3310 et seq.).

30 “(b) As used in this subsection, ‘evaluation’ means a study of the nature,

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

3 **“(4)(a) A state licensed appraiser or state certified appraiser en-**
4 **gaged to perform an evaluation is not engaged in real estate appraisal**
5 **activity if the evaluation includes a disclaimer that:**

6 **“(A) Is located immediately above the appraiser’s signature; and**

7 **“(B) Includes the following language in at least 10-point boldfaced**
8 **type:**

9 “

10 **I am a state licensed appraiser or a state certified appraiser. This**
11 **evaluation was not prepared in my capacity as a real estate appraiser**
12 **and might not comply with the uniform standards of professional ap-**
13 **praisal practice.**

14 “

15 **“(b) As used in this subsection, ‘evaluation’ means an opinion of the**
16 **market value of real property or real estate provided to a financial**
17 **institution in conformance with the Interagency Appraisal and Eval-**
18 **uation Guidelines adopted jointly by the federal financial institutions**
19 **regulatory agencies for use in real estate-related financial transactions**
20 **that do not require an appraisal.**

21 “[~~(4)~~(a)] (5) As used in this section, ‘purport to engage in or carry on real
22 estate appraisal activity’ means the display of a card, sign, advertisement or
23 other printed, engraved or written instrument bearing the person’s name in
24 conjunction with the term ‘appraiser,’ ‘licensed appraiser,’ ‘certified ap-
25 praiser,’ ‘appraiser assistant,’ ‘registered appraiser assistant’ or ‘appraisal’
26 or an oral statement or representation of certification, licensure or regis-
27 tration by the Appraiser Certification and Licensure Board made by a per-
28 son.

29 “[~~(b)~~] (6) Each display or statement described in [*paragraph (a) of this*
30 *subsection*] **subsection (5) of this section** by a person not licensed, certified

1 or registered by the board is a separate violation under ORS 674.850 or
2 674.990.

3 “[*(c)*] (7) In a proceeding under ORS 674.850 or 674.990, a display or
4 statement described in [*paragraph (a) of this subsection*] **subsection (5) of**
5 **this section** shall be considered prima facie evidence that the person named
6 in the display or making the statement purports to engage in or carry on real
7 estate appraisal activity.”.

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