

D R A F T

SUMMARY

Provides that real estate appraisal activity includes issuance of opinion as to value associated with energy efficiency of buildings located on real property.

A BILL FOR AN ACT

Relating to energy efficiency; amending ORS 674.100.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 674.100 is amended to read:

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.

(b) Real estate appraisal activity is the preparation, completion and issuance of an opinion as to the value on a given date or at a given time of real property or an interest in real property **and the value associated with the energy efficiency of any building located on real property**, whether the activity is performed in connection with a federally related transaction or is not performed in connection with a federally related transaction.

(c) Notwithstanding any other provision of law, a state certified appraiser or a state licensed appraiser:

(A) Is not required to be licensed under ORS 696.022 to perform real estate appraisal activity or any other activity that constitutes the giving of an opinion as to the value of real property, [*or*] an interest in real property **or the energy efficiency of a building**; and

(B) Is not subject to regulation under ORS 696.010 to 696.495 and 696.600 to 696.995 in connection with the performance of real estate appraisal activity or the performance of any other activity that constitutes the giving of an opinion as to the value of real estate, [or] an interest in real estate **or the energy efficiency of a building.**

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

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

(b) Is performed by a nonlicensed regular full-time employee whose activity involves the real estate of the employer, when the activity is the employee's principal activity, but the employer's principal activity or business is not the appraisal of real estate;

(c) Is performed by an attorney at law rendering services in the performance of duties as an attorney at law;

(d) Is performed by a registered geologist, registered professional engineer or architect rendering services as a registered geologist, registered professional engineer or architect;

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

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

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

(h) Is performed by a salaried employee of the federal government, the State of Oregon or a political subdivision of the federal government or the State of Oregon while engaged in the performance of the duties of the employee;

(i) Is limited to analyzing or advising of permissible land use alternatives, environmental impact, building and use permit procedures or demographic market studies, if the performance of the activities does not involve the rendering of an opinion as to the value of the real estate in question;

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

(k) Is limited to giving an opinion in an administrative or judicial proceeding regarding the value of real estate for taxation;

(L) Is limited to giving an opinion regarding the value of real estate by a person who is not licensed under ORS chapter 696, if the person's business is not the appraisal, selling or listing of real estate and the activity is performed without compensation. This paragraph does not apply to a person conducting transactional negotiations on behalf of another person for transfer of an interest in real property;

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

(n) Is performed by a home inspector acting within the scope of a certificate or license issued under ORS chapter 701.

(3)(a) Real estate appraisal activity does not include an analysis, evaluation, opinion, conclusion, notation or compilation of data prepared by 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. Nothing in this subsection shall be construed to excuse a financial institution or affiliate from complying with the provisions of Title XI of the federal Financial Institutions Reform, Recovery and Enforce-

1 ment Act of 1989 (12 U.S.C. 3310 et seq.).

2 (b) As used in this subsection, “evaluation” means a study of the nature,
3 quality or utility of a parcel of real estate or interests in, or aspects of, real
4 property in which a value estimate is not necessarily required.

5 (4)(a) As used in this section, “purport to engage in or carry on real es-
6 tate appraisal activity” means the display of a card, sign, advertisement or
7 other printed, engraved or written instrument bearing the person’s name in
8 conjunction with the term “appraiser,” “licensed appraiser,” “certified ap-
9 praiser,” “appraiser assistant,” “registered appraiser assistant” or
10 “appraisal” or an oral statement or representation of certification, licensure
11 or registration by the Appraiser Certification and Licensure Board made by
12 a person.

13 (b) Each display or statement described in paragraph (a) of this subsection
14 by a person not licensed, certified or registered by the board is a separate
15 violation under ORS 674.850 or 674.990.

16 (c) In a proceeding under ORS 674.850 or 674.990, a display or statement
17 described in paragraph (a) of this subsection shall be considered prima facie
18 evidence that the person named in the display or making the statement pur-
19 ports to engage in or carry on real estate appraisal activity.